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CANON LAW

AND THE

CHURCH OF ENGLAND

AN EXAMINATION OF THE PRESENT REVISION

Edited by

PHILIP E. HUGHES

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CONTENTS

<i>Chapter</i>	<i>Page</i>
I. INTRODUCTORY SURVEY	
By the Rev. Philip E. Hughes, M.A., B.D. (Secretary, Church Society)	2
II. CANON LAW AND CHRISTIAN REUNION	
By the Rev. E. C. Dewick, D.D. (Formerly Principal of St. Aidan's College, Birkenhead)	9
III. THE POSITION OF THE LAITY IN THE CHURCH	
By C. W. Finney, Esq., M.Inst.T.; M.I.R.T.E. (Formerly Member of the House of Laity, Church Assembly)	18
IV. THE VESTURE OF MINISTERS	
By the Rev. Richard J. Coates (Vicar of Christ Church, Weston-super-Mare)	31
V. IMPLICATIONS OF THE MARRIAGE CANONS	
By the Very Rev. J. Howard Cruse, M.A. (Provost of Sheffield)	39
VI. LAWFUL AUTHORITY AND THE ECCLESIASTICAL COURTS	
By J. F. Wallace Esq., LL.B. (Member of the House of Laity, Church Assembly)	48
VII. THE DOCTRINE OF THE CHURCH AND HOLY SCRIPTURE	
By the Rev. M. Guthrie Clark, M.A. (Vicar of St. Paul's, Slough)	58

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CHAPTER I

INTRODUCTORY SURVEY

The present process of Canon Law revision may have reminded some of Pope's "needless Alexandrine . . . that, like a wounded snake, drags its slow length along". It was in 1939 that the Archbishops appointed a Commission to investigate and report on the subject, and it was in 1947 that the Report, which included a complete set of new draft canons, was published. The discussion by the Convocations of the Report and its proposals has lasted through the ensuing years and still has not reached completion. Under the circumstances it is scarcely surprising that the revision of Canon Law is an undertaking which has failed to stir the imagination and interest of church people in England. In any case, the average Englishman is not legally (nor legalistically) minded: so long as the mutual rights and respectabilities of the community are reasonably safeguarded, he has no relish for the dusty dullness of laws and regulations.

Importance of the Subject

Yet the subject is one of importance for a number of reasons: firstly, any efficient organization must have rules in accordance with which its affairs may be defined and controlled; secondly, the existing Canon Law is three and a half centuries old, many of its prescriptions are obsolete and anachronistic, and it is even doubtful whether it has ever had any statutory force—Canon Law, if it is to be operative, is plainly in need of revision; thirdly, it is proposed that the new Canon Law, covering every aspect of Church life, should be enforceable against all members of the Church of England, lay as well as clerical; and, fourthly, the proposed canons are likely, if finally sanctioned, to alter the character of the Church of England in several significant respects. This being so, it is undoubtedly important that members of the Church of England (and indeed of the Free Churches also, in these days when the question of reunion is being so widely discussed) should show an intelligent interest by endeavouring to acquaint themselves with what is going on, so that they may form some judgment of the needs and dangers (if any) of the situation. It is hoped that this volume—a symposium to which men well qualified to comment on the various questions under review have contributed—will prove an aid toward the realization of this end.

Readers of this book are asked to remember that all the proposed new canons are still in draft form and as such have no validity at present (mid-1955). Many of them are still under discussion in the Convocations of Canterbury and York; some have not yet come up for discussion. It is possible for us to examine them only in their present form. When at last they have been hammered into their final shape and have been passed by the Convocations, it will be necessary for them to come before Parliament for ratification or rejection, though an attempt will probably be made to obtain the Royal Assent, without reference to Parliament, to those canons which are considered not to impinge upon the statutory law of the land.

Excessive Number of Canons

Our first comment is on the large number of canons which the Commission has regarded as necessary for controlling the life of the Church. They amount to no less than 134. It is true that the existing

canons of 1603 number nine more than this; but those were spacious days, and in any case they too are in many respects open to the criticisms which we feel may reasonably be urged against the present revision. There is, quite frankly, no need for so many. Even a cursory perusal will show that not a few are trifling in character and could with advantage be dispensed with. Some are in effect an uncalled for, if not vain, repetition of rubrical directions already contained in the Book of Common Prayer—e.g. 24-26 and New, p. 30 (page references are to the most recent edition of the proposed canons, published in 1954 under the title *The Revised Canons of the Church of England Further Considered*). Others might lead an outside observer to think that the majority of the clergy of the Church of England are fools, incompetents, and men of low spirituality—e.g. it is considered necessary to tell ministers “to ensure that only such chants, hymns, anthems, and other settings are chosen as are appropriate, both the words and the music, to the solemn act of worship and prayer in the House of God as well as to the congregation assembled for that purpose; and to banish all irreverence in the practice and in the performance of the same” (29). Is such pompous verbiage likely to create any impression other than that of the ludicrous? And it may well be asked what sort of men are being admitted to the ministry of the Church that it should be needful to remind them to choose appropriate hymns and to see that public worship is reverently conducted.

Or again, are our clergy so depraved that they need to be put under obligation “to spend some time daily in prayer” and “to be diligent in the study of the Holy Scriptures”? (81). Are they so irresponsible that they require the injunction “to wear such apparel as shall be suitable to the gravity of their office”—whether such suitable apparel should be sombre or cheerful is not disclosed, though an exception to this rule is allowed “for some urgent cause wherein”, it is grandiosely added, “we charge his conscience or for the purpose of innocent recreation” (82). This is supplemented by the requisition that “no Bishop, Priest, or Deacon shall give himself to such occupations, habits or recreations as do not befit his sacred calling; . . . neither shall he resort to or frequent any place not befitting his sacred calling” (83). It is to be hoped that the Convocations will not fail to provide tables of “urgent causes” and “innocent recreations”!

What will the man in the street think of a Church which, in the 20th century, is capable of the borrowed perpetration of a sentence as archaic and bulbous as the following?—“The true, ancient, and flourishing Churches of Christ, being ever desirous that their prelacy and clergy might be had as well in outward reverence as otherwise regarded for the worthiness of their ministry, did think it fit, by prescript form of decent and comely apparel, to have them known to the people, and thereby to receive the honour and estimation due to the special messengers and ministers of Almighty God . . .” (82).

“With a Good Conscience”

And, far more serious, what will the man in the street think of the declaration that the Thirty-nine Articles “*may be assented unto with a good conscience*” by all members of the Church of England” (2); and that the form of worship contained in the Book of Common Prayer “*may be used by all members of the Church of England with a good conscience*” (3)? It is a new thing for legislation to be formulated concerning the state of a person’s conscience! The implication is that there are at present members of the Church of England who have uneasy, if not bad, consciences about the Thirty-nine Articles and the form of worship prescribed in the Book of Common Prayer. Now, however, all such internal *malaise* and disquiet is to be resolved by a wave of the

canonical wand. This appears to be nothing other than an ill concealed attempt to invoke official sanction for the warped refinements of sophistry and jesuitry in the unfamiliar setting of the Church of England. It would be far more consistent with the British, not to say Christian, code of honour to declare that those individuals, particularly parsons or would-be parsons, who find themselves unable with a good conscience to assent to the Thirty-nine Articles or to use the form of worship prescribed in the Book of Common Prayer should regard themselves as unfitted to be members of the Church of England, and should seek their spiritual home in a more congenial sphere.

Those who, whether with easy or uneasy consciences, are members of the Church of England are to be restricted within the three bands of a legalistic straitjacket—the bands, firstly, of Canon Law, secondly, of the Book of Common Prayer with its prefaces and rubrics, and thirdly, of such enactments and rules of the Common Law as relate to the Church of England. But they are induced to hope that the pressure of this straitjacket may be relieved by operating the threefold zip of “such accepted usages as may for the time being obtain” and “the expositions and illustrations which are to be found not only in judicial pronouncements and decisions but also in the accredited writings of learned persons” (7). For those at any rate who are in a position to take advantage of it, there is any amount of scope here for snapping the fingers at the law by introducing when convenient the prop of “accepted usages” and “accredited writings”. The following questions inevitably arise: when is a usage an *accepted* usage? when may it be said to have acquired the dignity of “obtaining for the time being”? when is the writing of a learned person an *accredited* writing? and when is it not?

Custom and Law

Put in more general terms, it will have to be asked: when does custom become law? when does custom alter law? and, in particular, when does custom that is contrary to law nullify or supersede law? To take a concrete example: adoration of the sacrament is contrary to the Prayer Book rubric; but if, in spite of this, it has been allowed to become an “accepted usage obtaining for the time being” in a number of churches, is it therefore to be declared right and lawful? Many will find it difficult to regard this and the “good conscience” clauses already referred to as anything other than loopholes designed for those who are at present disloyal or undisciplined churchmen.

It is, however, the intention of the framers of these proposed canons that they should be “binding” and “enforceable” with reference to laity as well as to clergy (9). Indeed, it is proposed that all who hold any office in the Church of England, from archbishops downwards, should make a solemn declaration of obedience to “the Constitutions and Canons Ecclesiastical of the Church of England as they have been or shall hereafter be passed” (New, p. 88). Although this has the appearance of setting the Church’s house in order, it has a hollow ring. Year after year solemn declarations of allegiance to the Thirty-nine Articles and obedience to the forms of worship prescribed in the Book of Common Prayer are made only to be broken by many clergy. It is, in fact, sadly plain that there are some parsons who never have the slightest intention of keeping these solemn vows, and as a result men and women outside the Church, with their respectable Pelagian standards of candour and fair play, are caused to retreat behind the stone wall of cynicism.

It may well be also that a considerable number of clergy who treat their ordination vows with all seriousness, and who earnestly desire to be loyal churchmen, will find themselves unable conscientiously to swear obedience to all the Church’s canons, whether present (some of those proposed are already being strongly disputed) or future (to say the least,

it appears to be far from moral to demand obedience to rules which have not yet been formulated). It is not an empty warning nor a sensational prediction to suggest that numbers of loyal churchmen, if faced with this situation, might be compelled by their consciences to refuse to make such a declaration. Is the Church of England in such a position that she can afford to jettison men of Christian integrity?

Vicarious Worship

The statement that "it is one great part of the office of a Minister to praise and worship God not only in his own name but in the name of others also" (20), can hardly fail to occasion surprise, for vicarious worship is a novel doctrine in the Church. One can *share* in praise and worship with others, but to do it *in the stead* of others is something beyond all contriving. Perhaps it is felt that this astonishing doctrine of vicarious worship will provide consolation or even justification for empty churches—so long as the parson's there to carry out the religious exercises all is well!—the parson *is* the Church! But if such views are to be encouraged, let us be prepared to see a greater number of empty churches than ever.

Is it not time that our Church abandoned its superstitious inhibitions about the burial of bodies in unconsecrated ground (7) and the celebration of Holy Communion in unconsecrated buildings (49)? "The Almighty dwelleth not in temples made with hands". *Ex opere operato* beliefs in the efficacy of formulae pronounced over inanimate objects by a bishop are unrelated to scriptural reality. If there is such a thing as consecration (or de-consecration) of inanimate objects, it should rather be considered as dependent on the vital faith (or otherwise) of those persons, be they never so humble, with whom the objects are associated. Why do we not accept as sufficient our Lord's assurance, that where two or three are gathered together in His name there He is in the midst?

Services in Latin

The hankering of some for a return to the medievalism of services conducted in the Latin tongue seems to be reflected in a canon (51) which provides for the lawful use of Latin services in the Convocations, in university colleges and chapels and in Westminster, Winchester, and Eton schools. We do not hesitate to say, with all due deference to the members of our learned Convocations, universities, and schools, that the great majority of our Proctors would be unable to follow a service in Latin, and that those who have an acquaintance with the average student or scholar, whether at the distinguished academies mentioned or elsewhere, will realize how fanciful it would be to expect services in the Latin tongue to be intelligible to them. One of the outstanding blessings of the English Reformation was the provision of the liturgy in the *English* tongue: The Book of *Common Prayer* was wisely designed for the use of all Englishmen so that when they met together to worship God they might do so both with the spirit and with the understanding. Are we now able to ignore the words written, with reference to pre-Reformation worship, in the Preface to the Book of *Common Prayer*?—"The Service in this Church of *England* these many years hath been read in Latin to the people, which they understand not; so that they have heard with their ears only, and their heart, spirit, and mind, have not been edified thereby". What language a man may choose to use in private is entirely his own business, as the same Preface points out: "Though it be appointed, that all things shall be read and sung in the Church in the *English* tongue, to the end that the congregation may be thereby edified; yet it is not meant, but that when men say Morning and Evening Prayer

privately, they may say the same in any language that they themselves do understand". But a relapse into the Latin tongue in public worship, even in the "places of religious and sound learning" mentioned, would be a step backward towards unintelligibility, and consequently towards superstition, ignorance, and unspirituality.

It can hardly be gainsaid that the draft revision at present under review causes grounds for misgiving on the part of those who value the Reformed faith of the Church of England and fear a return to the doctrine and ritual of the Roman Catholic Mass. Loyal churchmen are already scandalized at the blatant manner in which well-known ecclesiastical booksellers display and advertise the "English Missal", an altogether illegal publication; and they are even more distressed at the episcopal unconcern (indeed in some cases it would seem connivance) over this matter. Can they be blamed for concluding that the use of the Latin tongue, the wearing of the Mass vestments (17), the sanction of the confessional (65), and the introduction of stone tables (97) are all of a piece?—for they are not unaware that these are all closely associated with the Roman Mass. Regarding the last mentioned, it is widely known that in the Roman Catholic view stone is requisite for the proper offering of the sacrifice of the Mass; consequently in unusual circumstances (for example, on board ship) it is customary, prior to celebrating Mass, for a Roman Catholic priest to transform a wooden table into an altar by placing a small slab of stone on top of the table. It is not unreasonable, therefore, to think that a stone table in this context is a somewhat disingenuous euphemism for a sacerdotal altar. The national conscience may be expected to react strongly against any inclination to revert to the days of the massing priests, for it is something which would be entirely distasteful to a freedom-loving people.

Episcopal Domination

The tendency of these proposed canons as a whole is towards the establishment of a rule of bishops. The initiative and discretion at present enjoyed by the parochial clergy will largely be removed if they pass into law. It is intended that the parson's wings should be clipped by episcopal scissors. Thus it would not be possible for him to invite any minister or member of another Christian denomination to speak or lead in prayer in an Anglican church during an interdenominational campaign or service, without first obtaining the permission of his diocesan to do so (11, p. 132); without the bishop's permission, a film could not be shown in an Anglican church or chapel (109); and it would be a breach of the law to hold a service of Holy Communion in an unconsecrated building (e.g., in camp or at a houseparty or in a cottage) apart from episcopal sanction (49).

And yet there is the strange anomaly of the admission of "custom", that mysterious *secundum quid*, as an authority parallel in some cases to that of the bishop. In draft canon 51, for instance, we are confronted with the extraordinary phrase: "as custom doth allow or the Bishop may permit". If custom allows what the bishop does *not* permit, what then? An entertaining situation might arise in theory; but the general tenor of the proposed canons makes it pretty plain that the diocesan bishops would be the sole arbiters of what custom does and does not permit.

Where are the Laity?

Finally, we must ask: where are the laity in these proposed canons? Have they any existence apart from submission and acquiescence? The answer is that, as things are at present envisaged, there is no place at all for them in the National and Provincial Synods (126) nor in the Diocesan Synods (128). To the laity is left the crust of "assisting the clergy" in

Parochial Church Councils, Ruridecanal Conferences, Diocesan Conferences, and the House of Laity of the National Assembly of the Church of England (commonly called the Church Assembly) (130); *but* "it is not within the competence of the National Assembly to issue any statement purporting to define the doctrine of the Church of England on any question of theology", nor to "diminish or derogate from any of the powers belonging to the Convocations" (134). It is true that draft canons 136-134 are not to be fully considered until the Commission on the Representation of the Laity in the Synodical Government of the Church has reported. The purpose of this book, however, is to examine the new canons in the form in which they are at present proposed.

It is quite apparent that, although lay members of the Church of England may not be required to make a declaration of obedience to the Church's Canon Law, it is none the less intended that this Canon Law should be enforceable not only against the clergy, but also against "such of the laity as either hold office in the Church or are members of any of the bodies mentioned in Canon 130 and all other of the laity claiming the benefit of any of the ministrations of the Church" (9)—in a word, the whole mass of the laity of the Church. It should be realized that this is something new in the Church of England as by law established. If these measures go through, or measures similar to them, the liberal and conscientious flexibility of the present will become a thing of the past; our Church will be modelled on authoritarian lines; the outlook will be potentially totalitarian. In National and Provincial Synods each archbishop will hold the power of veto (126): this being so, whether the laity are represented in synodical government or not, England will have two popes, one in Canterbury and one in York. And under them the diocesan bishops will be petty popes possessing practically plenipotentiary powers in their respective dioceses (128). The placing of this power in the hands of a few men, even though they be of episcopal rank, would constitute a very serious move in the direction of the formation of a "Police" Church.

Revolutionary Trends

It may be felt that this opinion is unduly alarmist or exaggerated, but it is important that the trends and potencies of the present Canon Law revision should be recognized. Do we in England, with our love of freedom and fair play and our belief in the democratic principle, wish the door to be opened in this way for the formation of a Church which may, through the power placed in the hands of a few men of episcopal rank (and there have been unscrupulous bishops in our history!), be quite out of sympathy with these values? The means to an end, and less so the first movements and impulses, are seldom as alarming in appearance as the end, or possible end, to which they are leading. That there are revolutionary elements in these proposed new canons is made apparent in the chapters which follow and which deal more fully with some of the matters we have raised in this introductory chapter. We do not, however, anticipate a sudden and catastrophic revolution: the true extent of the revolutionary potential of certain of these proposed canons may not be plainly displayed for many years to come.

Our conviction is that discipline in the Church is most necessary; consequently we are not in principle opposed to the enactment of Canon Law as an aid towards the attainment of necessary order and discipline. But it must be discipline of a sort which does not violate the consciences of Christian men who, like the apostles and saints of old, willingly submit themselves to the authority of Holy Scripture. Our plea, in other words, is for ecclesiastical law which is at all points *scriptural* in its precepts and perspectives. It cannot be said that the present revision is so at all points.

In conclusion, I wish to thank all those who have so generously, and

in the midst of very busy lives, contributed to this book. The various authors have been given freedom in the treatment of their respective subjects, and it should not be concluded that the viewpoint of Church Society is necessarily reflected in every statement to be found in the following pages.

PHILIP E. HUGHES.

CHAPTER II

CANON LAW AND CHRISTIAN REUNION

Introduction

Canon Law in recent years

The 'Reunion Movement' in Christendom in recent years has been very little concerned with Canon Law. The obligation to obey it has sat lightly, even on the majority of Anglican clergy. The present writer, brought up in the old-fashioned High Church school, never heard it mentioned at home; and at his Ordination, while he was called upon to assent explicitly to the Book of Common Prayer and the 39 Articles, neither the bishop nor the examining chaplains ever suggested that he was also bound by Canon Law. As for the Free Church negotiators who have taken part in the Reunion Movement, it is safe to say that it has never entered their minds that they might be called upon to obey Canon Law, if union with the Church of England were consummated.

The Demand for New Canons

But of late there has been a growing demand among Anglican leaders that a new Code of Canon Law should be drawn up for the Church of England, and recognized as binding upon all its members. This has led to (a) the appointment in 1939 of the Archbishops' Commission on Canon Law; (b) The Report of this Commission, 1947, with a list of proposed Canons¹; and (c) a revised draft of these Canons, 1954².

Now when the rules of a society are centuries old, it is almost inevitable that under the changed conditions of modern life, some of them should cease to be observed in every detail. Even the strictest 'canonists' seem willing to admit the principle of "abrogation through desuetude" (i.e., through disuse for a long time).³ But when *new* regulations are drawn up, it is very desirable that they shall be such as will command general assent, and not unduly restrict reasonable liberty; otherwise they will quickly be ignored, and a wholesome respect for Law will thereby be undermined.

(a) *The effect of the Proposed Canons on Projects for Reunion with Rome and Eastern Orthodoxy*, (b) *the Churches of the Reformation*

In this paper we need not, I think, consider at length the effect of the proposed Canons upon projects for reunion between the Church of England and the Church of Rome or the Orthodox Churches of the East. The fundamental demand of Rome that the Pope shall be recognised as the Vicar of Christ on earth, before any other questions can be discussed, is nowhere contemplated in these Canons; nor do they suggest any concession to the fundamental demands of Orthodoxy, such as the deletion from the Nicene Creed of the clause affirming the 'Dual Procession' ("proceeding from the Father *and the Son*"). Consequently, the adoption of them would not be likely to promote (nor, perhaps, to retard) the prospect of Reunion in either of these two directions. We may therefore confine our attention to the effect of the proposed Canons upon movements towards closer union between the Church of England and the Evangelical 'Churches of the Reformation'.

¹ *The Canon Law of the Church of England* (S.P.C.K., 1947); hereinafter referred to as *The Report*.

² *The Revised Canons of the Church of England further considered* (S.P.C.K., 1954) hereinafter referred to as *The Revised Canons*.

³ E.g., Canon E. G. Wood, in *The Regal Power of the Church* (1948), pp. 54-63.

A. The Main Principles of the Proposed New Canons

In many cases, sound; but some, open to serious objection

The main principles laid down in *The Report* will, we think, win the assent of the majority of Christians to-day, both Churchmen and Free Churchmen. These principles are: (a) that every Church has the right to make rules for its members, and to see that these are not treated merely as a 'dead letter', to be ignored at will by irresponsible individuals; (b) that the Church of England now needs some new regulations, to replace those that are out-of-date; (c) that the Anglican tradition favours a 'middle path', between a rigid conservatism and a reckless radicalism; and (d) that the new Canons need not cover exhaustively every detail of the Christian life, nor be regarded as unalterable for all time.⁴

These are sound principles; and in many of the proposed Canons, they are embodied in a form which will be generally approved. But there are also many things in these Canons which may well give us pause before we assent to them, especially when viewed in relation to the prospects for Christian Reunion.

We may consider these questionable features under three main heads: (a) the irrelevance of many of them to the conditions of modern life; (b) the uncertainty whether they are intended to *replace*, or merely to *supplement*, the old medieval Canon Law; and (c) some of them which definitely put obstacles in the way of closer union with the Evangelical Free Churches.

B. The Main Objections

1. *They are not relevant to the needs of to-day*

Are the proposed Canons such as to assure the Christian world as a whole that the Church of England has a message which is really relevant to the spiritual needs of mankind to-day, and is expressed in language which men of to-day can understand? Judged by this standard, we must regretfully say that, viewed as a whole, they are far from satisfactory.

(a) *Their language is archaic and out of date*

Although it is claimed⁵ that they are "an up-to-date version of the Canons of 1603", their language is in fact that of an antiquated ecclesiasticism. Take for example, the opening words of Canon 82, *On the Dress of Ministers*:—"The true, ancient, and flourishing Churches of Christ, being ever desirous that their prelacy and clergy might be had as well in outward reverence as otherwise regarded for the worthiness of their ministry, did think fit, by a prescript form of decent and comely apparel, to have them known to the people, . . . etc."

Now such language, when first drawn up in Canon 74 of 1603, was then "English as commonly spoken"; but to revive it to-day, in a new Canon of 1954, cannot but suggest that a Church which uses this manner of speech is living in a remote past, and out of touch with the world of the twentieth century. The normal Christian layman (whatever may be his denomination) may well wonder whether a Church which speaks in such antique phraseology is qualified to attract into closer union with itself those who are at present in 'the separated communions'.

(b) *Their regulations are in many cases impracticable and out-of-touch with real life to-day*

Many of the regulations in the new Canons seem to ignore the conditions of modern life, and lay down injunctions which it will be quite impossible to enforce. It is true that in some details, the Revised Canons

⁴ See the Report of 1947; especially the Foreword (by the Chairman, Archbishop Garbett), the Introduction, and Chapter I.

⁵ Report, p. 83.

of 1954 are less rigid than those of 1947. For instance, the former laid down that "All members of the Church of England shall attend Divine Service on the Lord's Day . . . on the Principal Feast Days (such as Circumcision, Epiphany, The Annunciation of the B.V.M., Ascension Day, and All Saints' Day); . . . shall observe Good Friday by fasting, prayer, etc., . . . and ought in like manner to observe the Forty Days of Lent" (Canons 14, 15). But can anyone seriously expect that, under present-day conditions, any but a tiny minority of the *very* devout members of the Church of England will obey these instructions? The Revised Canons of 1954 seem to have recognised this, by substituting the simpler injunction that these Feasts and Fasts "are to be observed in the Church of England", and especially by the clergy (Canons 15, 20, 23). That is a definite improvement. But even in the Revised Canons there remain a number of meticulous and antiquated rules; for example, concerning the posture of worshippers in church (Canon 18); the restrictions on clergy ordained overseas (Canon 59); or the proviso that Holy Communion may not be held in any unconsecrated building (Canon 49). Such rules will further increase the misgivings of non-Anglicans concerning the Church of England. If these were *old* rules, inherited from the past, they might be regarded with indulgence; but to adopt them as *new* rules in the 20th century suggests an 'antiquarian' attitude, rather than a vital, prophetic concern for the great issues of to-day. They will hinder, rather than promote, closer fellowship between the Church of England and the Free Churches.

2. *They do not clearly define the limits of the Law of the Church.*

(a) *The present uncertainty on this point*

We turn now to a second question, of considerable (even if indirect) importance for the prospects of Christian Reunion. Will the proposed Canons, if adopted, indicate clearly what *is* the Law of the Church of England? Or shall we be then told that members of our Church (and especially the clergy) are *also* bound by medieval Canon Law, in addition to these Canons? In the past, there has been no general agreement among Churchmen as to which (if any) of the medieval Canons, or the Canons of 1603-4, are really binding to-day. The majority of Church-people have (as we have already noted) completely ignored them; but some learned Anglican scholars still maintain that the whole body of medieval Canon Law (the *Corpus Juris Canonici*) remains binding on the Church of England.⁶ This uncertainty is (as Archbishop Garbett says) "profoundly humiliating and unsatisfactory for the Church", and he tells us that the new Canons are intended to define the Law of the Church clearly, in terms that will be "generally binding upon the clergy, and where they concern them, also upon the laity".⁷ But in fact, they still leave us in uncertainty.

(b) *The new Canons will replace those of 1603/4; but what of medieval Canon Law? Canons 7 and 8 still leave this point uncertain*

The *Report* states definitely that the proposed Canons are intended to *replace* the Canons of 1603/4⁸; but it does *not* make it clear whether they will, or will not, leave *medieval* Canon Law in the background, as a 'supplementary authority', which the clergy (at least) may be called upon to obey.

Canon 7 tells us that "the law and practice of the C. of E. are contained in the Canon Law of the C. of E., in the Book of Common Prayer,

⁶E.g., Canon E. G. Wood, *Op. cit.*, p. 79; or P. G. Ward, in *Standing Orders of the Church of England*, p. 5.

⁷In his Foreword to *The Report*, p.v.

⁸*Report*, p. 86.

and such statutory enactments as may from time to time be in force”.

But these ‘enactments’ are left undefined; and if we ask: What is “the Canon Law of the Church of England”? we are told in Canon 8 that—“the Canon Law of the Church of England consists of, first, these present Canons; and secondly, the General Canon Law, meaning thereby such of the provisions of the Canon Law in England at the passing of Act 25 Henry VIII as are still in force . . . and are not inconsistent therewith.”

If then we ask further: What *are* these ‘provisions’? the *Report* itself admits that they ‘have never been clearly defined’. The 1947 draft of Canon 8 lays down that “any question as to the content of Canon Law shall be conclusively determined by the Archbishops of Canterbury and York”. In other words, if this Canon were passed, the Church of England would be bound, not only by the Book of Common Prayer and the 39 Articles—and not only by the new Canons; but also by certain undefined rules of medieval Canon Law, which the bishops will be at liberty to invoke at their good pleasure.

Now, in the past, negotiations for Reunion have never (so far as I am aware) been complicated by any demand from the Anglican side that obedience to medieval Canon Law must be one of the conditions of Unity. But if the Church of England accepts the proposed Canon 8, can it, with any show of consistency, just drop this demand, immediately after endorsing it? And if it is not dropped, how many non-Anglicans will be prepared to add this new obligation to their commitments, as part of the price of unity?

3. *Canons which will definitely hinder Reunion movements*

We may now pass on to consider certain of the proposed Canons which bear directly upon the problem of Christian Reunion.

(a) *Canons 1-10?*

Canons 1-10 will probably not cause any special difficulty, apart from the indefiniteness of Canons 7 and 8 with regard to the scope of ‘Canon Law’, which we have already discussed; and the proposal that the clergy shall pledge themselves to assent to all Canons “that shall hereafter be passed”. The anathemas of Canons 1, 3, and 6 against those who deny that the Church of England “belongs to the true and apostolical Church of Christ”, or who maintain that its doctrine and policy are “repugnant to the Word of God”, are not likely to bear heavily upon Nonconformists to-day; for very few of them now wish to denounce the Established Church in such polemical terms! Canon 2, which re-imposes the 39 Articles, may cause some misgivings to ‘liberal’ Free Churchmen, as well as to some ‘liberal’ Anglicans; and the tendency of Church courts in the past towards heresy-hunting and obscurantism may cause some to doubt the wisdom of Canon 9, which emphasises their authority to punish ‘ecclesiastical offences’.

(b) *Canon 11 (‘of Schisms’)*

Much more important for our theme is Canon 11 of 1947 (transposed in 1954 to follow Canon 95): “Of Schisms and Divisions in the Church.” It begins with an earnest call to Churchmen “to seek in penitence and brotherly charity to heal all such divisions”. So far, so good. But what practical steps does it advocate to this end?

It provides that “In particular circumstances . . . a bishop shall be free to give leave for a minister of another Christian denomination to give an address in any church or chapel belonging to the Church of England, at services other than Holy Communion”; and also “for a minister of the Church of England to give an address in a place of worship belonging to some other denomination”. It specifies the

'particular circumstances' in which this special episcopal permission may be given, as follows:—

- (1) Joint services to promote Christian Reunion;
- (2) Inter-denominational campaigns;
- (3) Special national occasions;
- (4) When the bishop thinks that such permission would forward the ideal of Union approved by the Lambeth Conferences.

It then adds that such permission "should be exceptional, and without prejudice to the normal maintenance of the recognized rules of Church order"; and also, that informal gatherings for united prayer may be held in parish churches, with the bishop's permission.

Now these concessions certainly represent a relaxing of the stern attitude of the 1603 Canons towards Nonconformists, in which Canon 9 laid down that—

"Whosoever shall separate themselves from the Communion of Saints, as approved by the Apostles' Rules, in the Church of England, and join themselves together in a new brotherhood . . . let them be excommunicated *ipso facto*, and not restored . . . but after their repentance and public revocation of their wicked errors."

Compared with this, the new Canon is mild, and even conciliatory; but still, it clearly implies that normally it is "contrary to the Rule of the Church" for Anglicans to join in worship with Christians of other denominations, and that this can only be permitted under special episcopal dispensation, which may *or may not* be granted—and in any case, only in 'exceptional circumstances'.

Now is this the right Christian attitude to adopt to-day towards fellow-Christians whose ministries have been pronounced by our Fathers in God to have been "abundantly blessed by the Holy Spirit",⁹ and to be "in their spheres, real ministries of Christ's Word and Sacraments in the universal Church"?¹⁰ If the present writer were a Free Churchman, the effect of this Canon would be to irritate rather than to conciliate. If it is passed in its present form, non-Anglicans can only conclude that the Church of England is determined that the generous recognition given to their ministries in *words* by our bishops in the past must not be implemented by any corresponding *acts* in the future; and the cause of Christian Unity will receive a serious set-back.

(c) Canon 21 ('of the Holy Communion')

Another Canon which will administer a sharp check to Reunion movements is No. 21, *Of the Holy Communion*. In the 1947 draft, this ran as follows:—

"No person shall presume to consecrate and administer the Holy Sacrament of the Lord's Supper before such time as he shall be ordained Priest according to . . . the Ordinal; unless he have formerly been made Priest by episcopal Ordination. . . . No person shall be admitted to the Holy Communion, until such time as he shall be confirmed, or be ready and desirous to be confirmed."

The first paragraph clearly implies that all non-episcopal ministers who 'celebrate' Holy Communion are guilty of 'presumption', and are in fact (as the old Tractarians maintained) 'Uzziahs', unhallowed intruders into the sanctuary.¹¹ In the Revised Canons of 1954, the language has been softened, and the Canon begins:—

"No person shall consecrate and administer the Holy Sacrament of the Lord's Supper unless he shall have been ordained Priest by

⁹ See the Lambeth Appeal to All Christian People, 1920, VIII; and the Report of the Lambeth Conference, 1930, p. 116.

¹⁰ See Bishop Bell, *Documents on Christian Unity*. Vol. I, No. 46.

¹¹ See the Rev. S. H. Cassan's *Sermons* (1829), p. 84.

episcopal ordination in accordance with Canon 52" (which allows, as an alternative to the Prayer Book Ordinal, "episcopal ordination in some Church whose orders are recognized by the Church of England").

This is greatly preferable to the 1947 wording; but it still decisively refuses to recognize any non-episcopal minister as qualified to 'celebrate' Holy Communion.

As for the second paragraph of Canon 21, in 1947 it simply re-affirms without comment the Rubric which was added at the end of the Confirmation Service in 1662. But many of our best Anglican historians (among them, Bishops Stubbs, Creighton, H. A. Wilson, and Hunkin) have maintained that this Rubric was a 'domestic rule' for the children of the Church of England, and was never intended to exclude 'occasional hospitality' to members of other communions.¹² Consequently, many Anglican clergy, accepting this verdict, have not hesitated to assure communicant members of other Churches that on special occasions they would be welcome to partake of Communion in our Churches. But if the 1662 Rubric is now simply *re-affirmed without comment or historical explanation*, it will clearly mean that in the future no unconfirmed person may 'communicate' with us.

In this case, too, the 1954 revision slightly modifies the absoluteness of the interdict, by adding: "except under permission of the bishop of the diocese, and subject to any regulations of the Convocation of the Province". But even this implies that no parish priest will in future be entitled to assure a Nonconformist visitor that he will be *welcome* at the Lord's Table in the parish church. The priest must first refer each case to his bishop, who may either grant or withhold permission; and how many nonconformists will be willing to submit their petition to an Anglican bishop for a 'special dispensation'? Most of them believe that they are as fully members of the Body of Christ as are Anglicans. They would be glad, on occasion, to *share* in the Sacrament with us; but not to ask to be admitted as a special favour. The language of the 1947 draft is so brusque that it may well remind Nonconformists of the blunt notices outside War Office lands: 'Keep Out!'; and even in its revised terms, it says to them clearly: "No Admission, except by special permit from our Highest Authority!" Is this likely to further the cause of Christian Unity?

(d) *Canons 36-38 (M/1-M/3). ('Of Holy Matrimony')*

Another group of Canons which will tend to widen the breach between the Church of England and the Free Churches deals with the problems of Marriage and Divorce. (Canons 36-38 of 1947, or M/1-M/3 of 1954.) These uphold the 'rigorist' view, that under no circumstances may *any* divorced person whose former partner is still alive be married in church [M.1 (i) and M.3 (ii)]. To most nonconformists (and, we may add, to many Church-folk) this seems to be gravely contrary to the spirit of Christ and His Gospel of reconciliation. It will alienate the sympathy of many earnest Christians from the Church of England; it will drive some to seek the ministrations of other denominations, and many more into an attitude of hostility towards organized religion in general. It separates the policy of the Church of England, not only from the 'Churches of the Reformation', but also from Eastern Orthodoxy, and from the judgment of many of the wisest leaders of the Church of England in the past.¹³

¹² See Hunkin, *Episcopal Ordination, and Confirmation*, 1929, Chap. VIII.

¹³ See *Marriage, Divorce, and Repentance in the C. of E.*, by J. H. Cruse, Provost of Sheffield, and Bryan Green, Rector of Birmingham, pp. 23-26.

(e) *Canon 52 ('Of Holy Orders')*

Passing on to Canon 52 (2) of the Revised Canons, we find that it lays down that "No Bishop, Priest, or Deacon can ever be divested of the character of his Order." This endorses the dogma that Ordination automatically imparts a 'character' (an 'invisible something', to be *distinguished* from 'sanctifying grace')¹⁴, which can never be effaced. This dogma of 'the indelibility of Orders' has no warrant from Scripture, nor from the Prayer Book or Articles, and will certainly not be accepted by the main body of Nonconformists.

(f) *Canon 65 ('Of Priests Hearing Confessions')*

Another Canon which will cause deep misgivings among Free Churchmen is No. 65, 'Of Priests hearing Confessions' (1947), or 'Of the Hearing of Confessions' (1954). Now the Book of Common Prayer undoubtedly provides for Private Confession to a Priest in cases where the sinner 'cannot quiet his own conscience'; but the wording clearly implies that such action should be exceptional, and that such Confession should be an occasional medicine, not a normal food. But the revised draft of Canon 65 directs that "any with a troubled conscience . . . shall resort" to Private Confession; and it lays down detailed rules for the official appointment of 'Confessors' by the Bishop. This at once gives to 'the Confessional' a place in the normal system of Church life which it has not held since the Reformation. Moreover, the strict insistence upon the 'Seal' of the Confessional ("the Priest is straitly charged that he do not at any time reveal to any person whatsoever any sin so committed to his secrecy") raises a very difficult moral problem. For while no one is likely to deny that normally a Priest (or indeed any person) to whom sins have been confided in private is in honour bound not to divulge what has been told him, the insistence upon this obligation as *absolute and invariable* may involve the Priest himself in deceit, or at least in prevarication. For example: if a priest is a member of the Governing Body of a school, and there is a proposal to appoint as a master one whom he knows (through the Confessional) to be of bad moral character, then his silence (or even his refusal to give reasons for objecting) may lead to an appointment which will bring injury to many young lives. Many churchmen, as well as most Nonconformists, view the organized system of the Confessional with profound misgivings; and Canon 65 will certainly act as another barrier against closer Union of the Churches.

4. *The concentration of power in the hands of the Bishops and Clergy*

One of the gravest defects of the proposed new Canons, in the eyes of both Evangelical and Liberal Churchmen, and also of Free Churchmen, is that they will concentrate real power in the Church too much in the hands of the bishops, giving very little discretion to the parish clergy, and no power of initiative to the laity in matters of doctrine or practice.

All doubtful questions must be referred to the bishops

According to the new Canons, parish priests are required to submit to their bishop all kinds of doubtful questions which they, as responsible and commissioned officers of the Church, ought to be amply qualified to decide on their own responsibility.¹⁵ The Bishop by himself has power to veto any resolution of his Diocesan Conference (Canon 133), and after such Conference or Synod, he "may publish rules and regulations of his own making" (Canon 128). As for the laity, they have no place

¹⁴ Darwell Stone, *Outlines of Christian Dogma*, p. 209.

¹⁵ See, e.g., Canons 47, 50, 51, 64, 65, 72 (5), 128.

at all in Convocations, but only in the National Assembly—which is expressly forbidden “to issue any statement purporting to define the doctrine of the Church of England on any question of theology” (Canon 134).

Neither the inferior clergy nor the laity may initiate any discussions on matters of doctrine

In past negotiations on Reunion, the Free Churches have again and again been assured that while they are asked to accept Episcopacy, this means a *reformed* and *constitutional* episcopacy.¹⁶ But the proposed Canons will, in effect, leave the Bishops as sole arbiters of doctrine and worship in the Church of England. In such matters, neither the ‘inferior clergy’ nor the laity are allowed any power of initiative.

This attitude of the proposed Canons towards the Laity may well prove to be one of the most serious obstacles to closer union with the Free Churches. It cannot properly be called a ‘High-Church’ policy; for it debars the great (lay) majority of members of the Body of Christ from exercising any final influence in the control and direction of the Church’s doctrine and practice. It is at most, a ‘High-ecclesiastical’ or ‘High-episcopal’ policy. In most of the Free Churches, lay-members of the Church are given a far larger share of responsibility and authority; and these bodies may well hesitate to enter into closer union with a Church in which the ultimate power and authority is restricted to a small group of its ecclesiastical leaders.

C. Conclusion

We may now endeavour to gather up the main conclusions to which our survey of the proposed Canons has led us.

We believe that the primary concern of any new Canons ought to be, to enable the Church of England so to order its own life that it may be able to make its best possible contribution to the Church of the future. To do this, its message should be on the one hand true to the principles and proportions of Our Lord’s message as recorded in Holy Scripture, and at the same time should be so clearly relevant to the needs and thought of to-day, that it will win a response from that large body of Christian people to whom it seems that at present the Church is absorbed in ecclesiastical details of little real importance.

We have already indicated that the proposed Canons, viewed as a whole, do not adequately fulfil this purpose; and that a revision of them is essential, along at least three main lines.

1. There are several Canons which in their present form would put almost insuperable obstacles in the way of closer union between the Church of England and the Evangelical Free Churches. Some of these are inherited from the past; but if they are now deliberately re-affirmed, they will acquire a new authority, as an expression of the mind of the Church to-day, and will set back the whole movement towards Christian unity, not only in this country, but (what is more serious) in lands (predominantly non-Christian) overseas. It may well be that, in that case, many of the Anglican daughter-Churches will still decide to go forward with the Reunion schemes in which they are already deeply involved. If so, the result will be a widening breach between them and their mother-Church of England; and, both at home and abroad, the Christian cause will suffer.

2. We have urged above that the new Canons ought clearly to define the *limits* of the Law of the Church to which its members are

¹⁶E.g., in the Report of the Archbishops’ Commission on Unity, 1918 (Documents on Christian Unity, S.P.C.K., p. 13); Lambeth Conference Report, 1920, p. 135; Lambeth Conference Report, 1930, p. 116.

required to subscribe, and not (as at present) to leave the Canon Law of the Middle Ages unrepealed, hanging like a 'Sword of Damocles' over the head of the clergy, who could at any time be charged with disobeying unspecified laws, at the will of the Archbishops for the time being. Few Free Churchmen will wish to come into closer union with a Church which cannot make up its mind as to the limits of its own laws.

3. Even more important (though admittedly more difficult) is a thorough revision of the proposed Canons with a view to bring them into more vital relation with the needs of the modern world and the best Christian thought of to-day. In their present form, they unmistakably reflect the outlook of men whose ideals lie mainly in the medieval Church. It is significant that among the members of the Commission which drew up these Canons, there is not a single representative (with one possible exception) of definite Evangelical or Liberal Churchmanship, while there are four or five who are recognized exponents of advanced Anglo-Catholicism. It is not surprising, therefore, that among the changes proposed in the Canons, there is hardly one which shews any sympathy with (or even any awareness of) either the basic principles of the Reformation, or the challenge of present-day Christian thought to the Church.

If the proposed Canons are compared with (say) the Constitution of the Church of South India, the contrast in spirit between the two becomes evident. The latter, while recognizing the authority of the Scriptures, and the main tradition of Christendom, is elastic and 'alive', leaving a door open for the Church to listen to what the Spirit may say in the days ahead, and entrusting to the *whole* Church (bishops, clergy, and laity) final responsibility for decisions concerning its doctrine and practice. By contrast, the proposed Canons are meticulous and rigid, looking backwards to the past rather than forwards to the future.

If passed in their present form, they would put a grievous strain on the consciences of many who have in the past believed themselves genuinely loyal to the ancient Church of England, which would then tend to become a 'sect', disowned on the one hand by Rome and Orthodoxy, and hindered on the other hand by its new Canons from taking any effective steps towards closer fellowship with those Christian communions which our Anglican divines of the 17th century used to designate as "our sister Churches of the Reformation".¹⁷

E. C. DEWICK.

¹⁷ Bishop Joseph Hall (author of *Episcopacy by Divine Right*) wrote in 1640: "Blessed be God, there is no difference in any essential matter betwixt the Church of England and her sisters of the Reformation." And Archbishop Sancroft, in 1689, urged his clergy "to have a very tender regard for our brethren, the protestant dissenters." (See Hunkin, *op. cit.*, pp. 34, 54)

CHAPTER III

THE POSITION OF THE LAITY IN THE CHURCH.

The word "Canon" means a "straight rod," or a rule or regulation used to govern the members of the Early Church, the majority of whom were, of course, laity. The use of the term "Canon Law" is, however, a different matter as the 1603 Canons were not confirmed by Parliament. They can, therefore, only apply with the force of Law to the laity insofar as they "declare the ancient usage and law of the Church of England received and allowed herein"¹. In fact it is only insofar as Canons are in agreement with Statute Law that they can be really effective. Of the 134 'Revised' (or Revived!) Canons proposed in the 1947 Report of the Archbishop's Commission on Canon Law, as later revised by the Convocations, some 43 concern the laity directly or indirectly. We shall examine some of them in detail later, but first we must study the past and present share of the laity in the making of the Canons to which they must conform.

The Historic Position of the Laity

In 1902 the Convocation of Canterbury set up a Joint Committee to consider and report on the position of the laity in the Church, "with reference to legislation in matters ecclesiastical, elections of Church Officers, and judicial functions in the Early Church and under the Constitution of the Church of England".² Thanks to the initiative of Mr. Goyder, to whose outstanding championship in the Church Assembly of the laity's rights—and duties—evangelicals owe a great debt, this Report was re-published by S.P.C.K. in 1952. Lack of space alone prevents the very extensive quotations from this edition which is justified, for it provides an invaluable and authoritative source of information, and a study of the Report is strongly recommended.

The Committee was composed of 7 Bishops, 3 Deans, 4 Archdeacons, 5 Canons, and one Prebendary, but not one solitary layman!

In Apostolic Times

"Any true conception of the function of lay members must depend upon a true conception of the general character of the Church. The Church of the Apostolic age was neither democratic nor despotic." (Report, p. 7) . . . "Not despotic: for its officers were not lords over subjects, but divinely commissioned leaders of a divine society of brethren" (ibid). . . . "The life and action of the Church were the life and action of the whole body. The officers acted with, not in mere obedience under, its officers. Still less could it supersede, or act apart from, them. The principle follows directly from the truth that the Holy Spirit was given to the body as a whole." . . . "Accordingly (a) when a Church is addressed the address is to the brethren corporately; and (b) when a Church acts, it is the brethren corporately who act. This certainly does not include differentiation of function within the body. But neither the corporate fulness on the one hand, nor the difference of function on the other, can be lightly understood except in due relation to each other" (ibid).

"*The Legislative Function.*—In the Council of Jerusalem (a) "the Apostles and the elders were gathered together to consider", Acts XV, 6; (b) the body in general was present, and concurred ("with the whole

¹The Canon Law of the Church of England, 1947, p. 77.

²1952 Issue of the Report—p. 1 S.P.C.K.

Church", Acts XV, 22). . . . "St. James summed up, and the Meeting as a whole accepted his conclusion, and sent it as the mind of the Church in Jerusalem to the 'multitude' (verse 30) of the 'brethren' (verse 32) in Antioch" (1902 Report, p. 8).

Note that in verses 12 and 13 the "multitude" signified by their silence their consent to what was agreed; there had been "much disputing" (verse 7).

That a "Council of Bishops" did not mean a council confined to Bishops is illustrated by the part taken by Origen, a presbyter, against Beryllus and against other unorthodox Arabians (Eusebius, Hist. Eccl. VI, 33, 37); and somewhat later by Malchion, a presbyter, in the Councils against Paul of Samosata (H.E. VIII, 27). It is, however, the episcopate of Cyprian which directly supplements the Ignation formula "nothing without the bishop" by the correlative "nothing without the advice of the presbyters and the consent of the laity" (Ep. XIV, 3). (Report, p. 10.)

The Intervening Centuries

The Report (of 64 pages) traces the development of ecclesiastical government and administration before, and after, the Reformation, but space precludes much quotation here. The most important development was, of course, the Reformation which transferred the earthly Headship of the Church of England from the Roman Pope to the Crown. The Act entitled "The Submission of the Clergy" (A.D. 1534) required the assembly of the Convocations at the writ of the King only and enacted that no ordinances or Canons might be promulgated without the King's assent and licence. The Ecclesiastical Appointments Act of the same year obliged Cathedral Chapters to elect the person named in the letter missive accompanying the *congé d'élire*. The Sovereign as the chief representative of the laity then held great power and Parliament was composed entirely of communicant lay churchmen. Thus, it may be claimed, the laity took their full part with the Convocations in Church government.

From 1789 to 1900

The passage of the Toleration Act of 1688 and subsequent enactments which admitted to the legislative and public office Roman Catholics, Jews and non-Christian citizens radically altered the situation and "Parliament ceased to be, what it once was, a representative assembly of the laity of the Church of England" (Report, p. 51). Many more changes have occurred, such as the opening of the old universities to non-Churchmen, the transfer to the State of much of the Church's educational work with the exclusion of the formularies of the National Church from their teaching, and the relief of the poor. "Thus the legislature has withdrawn from the Church the responsibility, and to a large extent the opportunity, for the performance of duties which of right come within the province of the Christian laity; and has by its legislative measures made it clear that in England 'citizen' and 'churchman' are no longer convertible terms . . ." (p. 54).

Conclusions of the Report

Some very important observations and appraisements emerged from the Conclusions of the Report and these follow. "The study of the Apostolic and primitive constitution of the Church, as it is set forth in Holy Scripture and in the history and writings of the first three centuries, shows, as we think, clearly the co-ordinate action of clergy and laity as integral parts of the whole body of Christ" (p. 62).

"Nay, we perceive very clearly, both from the historical and the theological portions of the New Testament, that the ultimate authority and the right of collective action lie with the whole body, the Church. We find, in fact, in this first period traces of the co-

operation of clergy and the laity in all the three spheres with which our Report is concerned, in legislative functions, in the election of Church Officers, and in judicial discipline, and we cannot but conclude that this co-operation belongs to the true ideal of the Church." (p. 62.)*

"In our own Church particularly the co-operation of clergy and laity in the matters before us was close and constant in the Anglo-Saxon period, though the right of the clergy to their own meetings for counsel was always recognized" (p. 63). After a summary of changes which have occurred the report states:— "*These changes are detailed in the first section of our fifth chapter, which we believe to be one of the most important in its bearing on the conclusions that follow; and the survey of them forces us to conclude that our laymen have lost the constitutional authority they once had in Church legislation, as well as in most other parts of ecclesiastical administration. In this way also the very important conception that a layman is a member of the Church, under the discipline of the body, who has responsibilities as well as rights, has been much obscured*"* (pp. 63f.).

Proposed Assembly. "It appears to us, therefore, that the creation of a representative assembly, in which clergy and laity should be co-ordinated under episcopal authority would be a wise reversion not only to old Anglican tradition, but to those primitive Church principles which our national Church always desires to follow. We observe that such a course has been universally adopted by the sister and daughter Churches of the Anglican Communion. We observe also that the Established Church of Scotland, in which a powerful General Assembly, consisting of clergy and laity, has existed from the first year of the Reformation, shows that such an arrangement is perfectly compatible with Establishment. Such an Assembly in this country, working, as it must necessarily do, in harmony with the Crown and with Parliament, would in our opinion do much to promote that effective service to and representation of the religious life of the nation, which it is the object of Establishment to secure. Such an assembly would not stand alone. It would lead in due course to the development of local organizations in our parishes and dioceses which would subserve the general object of making all members of the Church more conscious of their rights and responsibilities" (p. 64).

The Voice of the Laity in Canon making

In view of the present Canon Law Revision process, the Committee's most cogent and relevant observations, contained in their Introduction (pp. 5f.) are now brought to the reader's special notice. "The conditions, however, of the self-governing churches of our communion have thrown them upon these older principles, and we would draw special attention to the last section of our report as exhibiting the unanimous testimony of Anglican communities to the wisdom of uniting clergy and laity in the Councils of the Church. The maxim that what concerns all should be approved by all is a principle of ancient law which has had great influence in English constitutional law. But it is more than a principle of law; we believe it to be inherent in the Gospel. Its application to ecclesiastical business naturally demands the provision of special safeguards to maintain the position of the teaching body, the clergy, which is committed to them through the appointment of the apostles by our Lord and Saviour Jesus Christ. *But if, as we believe, such safeguards can be provided, it seems entirely reasonable that the faithful laity should be consulted, and their approval obtained through their representatives, before the enactment and promulgation of rules which concern them*

*Author's italics.

*as the people of Christ . . . It appears to us that the obedience to Christian principle, which is the end and aim of canon law, is much more likely to be secured by previous consultation of those to whom the rules of the Church apply, than by our present system.”**

As Mr. Goyder pointed out when quoting this passage in the Church Assembly debate on 20 June, 1951, the right of approval must carry with it the right of withholding approval, or the veto, which is precisely what is being denied to the laity by Convocations to this day!

Twentieth Century Developments in Lay Representation

The Enabling Act of 1919 and the National Assembly of the Church of England

As the reader will know, despite the apparently overwhelming force of the opinions of such an influential and erudite body, another 17 years had to pass before the Enabling Act of 1919 inaugurated the National Assembly of the Church of England, with its three Houses of Bishops, Clergy and Laity. As the Bishop of Rochester has pointed out in an able paper in the *Church Gazette* for Sept./Oct. 1951, this Act sought to remedy a crying defect in the constitution of the Church—a defect that had been recognized and strenuously debated ever since the revival of the Convocations in 1852. But it burked the real issue, for the National Assembly of the Church of England confines itself to administration, and is precluded by its constitution from dealing with those questions of doctrine, in which Keble declared “the voice of the laity, in one form or another, has always been a most essential part of the voice of the whole Church”. The precise wording of the clause in the Assembly’s Constitution is:— “14(1) . . . Provided that any Measure touching doctrinal formulae or the services or ceremonies of the Church of England or the administration of the Sacraments, or sacred rites thereof shall be debated and voted upon by each of the three Houses sitting separately, and shall then be either accepted or rejected by the Assembly in the terms in which it is finally proposed by the House of Bishops.” And:— “14(2) The Assembly or any of the three Houses thereof may debate and formulate its judgement by resolution upon any matter concerning the Church of England or otherwise of religious or public interest: Provided that it does not belong to the functions of the Assembly to issue any statement purporting to define the doctrine of the Church of England on any question of theology, and no such statement shall be issued by the Assembly.”

In the light of the above wording, is it surprising that some of us wonder whether even the Assembly has effective authority to pass any Measure for Parliamentary approval containing Canons which have any theological content, unless, perhaps “in the terms in which it is finally proposed by the House of Bishops”? Dr. F. A. Iremonger, one of the Secretaries of the “Life and Liberty Movement” which brought to birth the Enabling Act of 1919, expresses his regret in his *Life of William Temple* (pp. 277, f.), that it has not “been found possible—indeed no effort has been made—to give the laity any statutory right to a voice in the management of services in their parish church which would not infringe the deeply rooted authority of the clerical Order to decide on all forms of worship”.

The Revision (or Revival) of Canons proposed by the 1947 Report of the Archbishop’s Commission on Canon Law, and the part of the Laity in the process

On the 18th June, 1951, the House of Laity of the Church Assembly received the unusual honour of a visit from the Archbishops both of

*Author’s italics.

Canterbury and of York who introduced the subject of Canon Law Revision. His Grace of Canterbury, in his usual gracious and gifted manner, explained the background and extent of the problem and the course of procedure which would be followed. He made it quite clear that, although the laity had no constitutional rights in the making of Canons, which was entirely the privilege of the Convocations, the House of Laity would be closely associated purely as an act of grace. The Convocations were anxious that the Canons, when agreed, should be considered by the House of Laity, and any recommendations or observations would receive most careful consideration. After final agreement it was probable that the new Canons would require ratification by Crown and Parliament, but this aspect had not yet been settled. Following an able disquisition by the Archbishop of York, His Grace of Canterbury reviewed the progress made by Convocations in regard to various Canons and reiterated that, although the House of Laity would only have a right to comment on those Canons requiring Parliamentary sanction, the Convocations desired lay commentaries on all. The House of Laity was not asked to scrutinize the draft Canons as though it were a legislating body, but to express views on the substance rather than detail. The Archbishop gave an assurance that any appreciable body of disagreement would not be over-ridden or ignored but he hoped that, if differences appeared, they could be handled by discussions between the Convocations' Canon Law Steering Committee and the Committee of the House of Laity. There should be contact between both Committees throughout. His Grace hoped that it would prove possible to achieve final agreement between both Convocations and the House of Laity ready for the next stage—discussion in the Church Assembly of Measures for Parliamentary Approval, and he commended to all the need for charity and patience. During the subsequent debate on Mr. Goyder's motion in the Assembly reported at pp. 201 to 229 of the Official Report, several laymen expressed serious concern at the denial to the laity of the right to a positive share in Canon Law formulation. The Archbishop of Canterbury insisted that this was a constitutional position which could not be altered by Convocations, but only by the Church Assembly itself taking the necessary steps to alter its Constitution under the Enabling Act through Parliament. At the same time, to do this would take up a great deal of time, trouble, and labour by people who were already much occupied and, on his part, Canon Law was as much as he wanted on his shoulders at the present. His Grace again emphasized what he had told the House of Laity, that, despite the existing Constitutions which gave Convocations this right and limited the Church Assembly, they were trying to proceed at every stage with the fullest agreement of the House of Laity.

We have perforce dealt at some length with the historical background, the present circumstances involved in Canon Law revival, and the position of the laity, as it is essential to an understanding of the attitude which evangelical—and indeed other—laymen are forced to adopt both as to the constitutional and procedural aspects of their situation.

The evangelical lay attitude—particularly in the House of Laity

The constitutional restriction on the members of the House of Laity apparently precludes them from a right to participate in that House in the actual formulation of the Rules (Canons) by which they are to be governed. By an act of grace only, the House of Laity is being allowed to comment, but not to say a final 'yea' or 'nay'. However the Clergy in Convocation may interpret their authority, or lack of it, to extend an act of grace far enough to give the House of Laity the means of exercising an effective veto, they cannot deprive the laymen of the Church of their right to action where that right is still unassailable—in the House

of Commons. Bishop Chavasse, in his paper on *Guiding Principles for the Future*, published in the *Church Gazette*, Sept./Oct. 1951, makes the position clear:—"Obviously the Laity cannot surrender the only power of veto they now possess in manners of Church doctrine—namely, in Parliament, until, as in the Church of Scotland, they are accorded a full and effective voice in the Councils of the Church." And: "What we need is a new 'Life and Liberty Movement' which should be a 'Laity and Liberty Movement' and give the laity their share in the ordering of the worship of their own parish church, as well as in the Church as a whole. Only in proportion as the laity have a full share of Church government, both locally and centrally, will the Church achieve that absolute liberty of the Church of Scotland, and so become an Established Church, which is yet Free."

Principles adopted by Evangelicals

Although there is no 'Party' organization as such, evangelicals in the Church Assembly are not without means of co-operation and effecting concerted action. Looking back over the intervening three-and-a-half years of debates it would appear that their lay policy has been developing somewhat on the following lines:—

- (i) Accept the proffered act of grace in the spirit of the offer and co-operate as far as possible;
- (ii) Campaign against the exclusion of the laity from, and aim for inclusion in, effective canon-making;
- (iii) Study carefully the draft Canons sent to the House of Laity and take every step possible to have any objectionable ones altered;
- (iv) Study the results of action taken in the House of Laity for future guidance and plan future action accordingly both in the Assembly and further afield.

(i) Co-operation by the Laity

The House of Laity has certainly co-operated and dealt with such controversial canons as have reached them from Convocations in a spirit of tolerance. In fact evangelical members may be forgiven for feeling that too much of vital principle has been sacrificed through majority verdicts under the plea for toleration—constantly in the one direction of concessions to the Anglo-Catholic view—as has been pointed out in debate.

(ii) Educational Propaganda on the Rights of the Laity

Lay members have, whenever profitable, both in the House of Laity and the Assembly, emphasized their scriptural and historic right to an effective voice in the making of the rules to which they must bind themselves. The *grounds for our claims* have been much as follows:—

The historic scriptural grounds so clearly set forth in the 1902 Report quoted above, and particularly that Commission's Conclusions, have been advanced again and again.

Further strong arguments used are the following:—

Draft Canon 5 states:—"The doctrine of the Church of England is grounded in the Holy Scriptures . . . and in particular is to be found in the Thirty Nine Articles of Religion . . ."

Article 20 states: "The Church hath power to decree Rites or Ceremonies, and authority in Controversies of Faith:"

Article 19 states: "The visible Church of Christ is a congregation of faithful men, in which the pure Word of God is preached, . . ."

In view of the definition of the Church in Article 19 how can the laity be debarred from their share of the right to "decree Rites or Ceremonies, and have authority in Controversies of Faith"? In our view

these two Articles alone have sufficient force to justify Convocations in allowing the laity their right, despite draft Canon 126 which defines the Church of England by representation as consisting of the Convocations only!

The exclusion of the laity from an effective voice in canon making is bound to be a deterrent to re-union with non-conformists.

As the Bishop of Rochester has pointed out, "in every single national or regional Church of the Anglican Communion, *except* the Church of England, the laity have their place, as of acknowledged right, in the great Synods of their Church."

(iii) Draft Canons and action in the House of Laity

As the official Record of Proceedings shews, every motion or amendment which seemed necessary to improve or delete unacceptable proposals has been initiated during the House of Laity debates. The results have frequently been most disappointing and disquieting. Notably in the debates on Canons 5 (Doctrine), 17 (Vesture of Ministers), and 21, Section 2 (Admission to Holy Communion), the arguments advanced by evangelicals were, without doubt, of much greater force than those opposed to them, as an unbiased reader of the Report would admit. Nevertheless, based on majority votes, the decision of the House of Laity went against us, though the main tussle on Canon 21 still lies ahead and Canon 17 will also probably return to the House. Although the amended draft Canon 13 calls for two-thirds majorities in the Convocations and House of Laity, this has not been applied in any Canon Law debates, and perhaps we are at fault in not having sought to secure such a safeguard for minority views.

(iv) Study of Results, and Future Action

From the evangelical viewpoint results have been unsatisfactory in the Canons referred to above, and the same situation may arise when 21 (Admission to Holy Communion), 65 (Hearing Confessions), 69A (Declaration of Obedience) and others come up for consideration.

Why should this be the case when, as we believe, the great majority of the lay-folk of England still wish to follow the doctrine and practice of the Reformation Settlement and not the Romeward extravagances of so many Anglo-Catholic parochial clergy?

Many of us believe that the House of Laity is by no means truly representative of the average lay congregation or the views of the bulk of the laity of the Church. We have received powerful confirmation of this view in the 1952 Report of the Church and State Commission of the Church Assembly ("C.A.1023"). This has the following to say—among other equally relevant observations—(pp. 22f) "It is true that the 1935 Commission, after careful examination, rejected any allegation that the House of Laity in the Church Assembly is unrepresentative. They held that, on the whole, it represents very fairly the state of opinion in the parishes. But the British public is not wholly convinced of this. There is an under-current of feeling that, though the voting in elections to Church bodies may fairly reflect the views of a majority among articulate Churchmen, *these themselves are only a minority of the whole body and the balance would be different if the inarticulate were taken into account. In any case electors to the House of Laity have a limited choice, for only members of particular age groups and social classes have normally the leisure or means to attend sessions in London. Hence it is arguable that, however paradoxically, the House of Commons represents the mind of the inarticulate mass of laymen more closely than does the House of Laity.*"*

*Author's italics.

The Commission's Report goes on (p. 23) to point out that, when Parliament rejected the 1928 Prayer Book Measure, it was not "arrogantly claiming to take in hand the absolute control of the belief and worship of the Church of England", but was imposing delay where there was genuine doubt whether the mind of the Church had been fully made up. The evidence of Professor Sykes to the 1935 Commission is quoted (p. 24) as follows:—"it has been Parliament's function to retard, and upon occasion to frustrate, the designs of particular generations of clergy towards alterations which were in advance of the general body of opinion."

In this connexion it must be realized that, if the liturgical experimental revision proposals under Draft Canon 13 receive the Royal Assent, Parliament will have no power of veto in future and the only lay voice will be in the House of Laity.

House of Laity: Composition: Functioning

We may form our own opinion on the validity of the Commission's views quoted above from the necessarily condensed analyses which follow:—

Composition of the House

In the February 1953 Assembly debate Mr. Goyder quoted a rough occupational census he had made of the then House of Laity with the following result:—

Professional:						
Medicine	..	..	..	..	3	
Accountants and Surveyors	..	..	..	..	15	
Civil Servants	..	..	..	..	11	
Justice	..	..	..	..	18	
Education	..	..	..	..	19	
The Services (Retired)	..	..	..	..	12	
Members of Parliament	..	..	..	..	4	
					—	82
Commerce and Industry:						
Trade Unionists	..	..	..	..	2	
Farmers	..	..	..	..	2	
Industry, Business, Banking	..	..	..	..	19	
Journalists	..	..	..	..	1	
					—	24
Professional Church Workers	..	..	..	..	19	
Women (of whom 22 were wives of clergymen)	..	..	..	..	74	
Retired, over 65	..	..	..	..	86	
						285
Unclassified	..	..	..	..	..	49
						334

Functioning

During the House of Laity debate on 23rd May, 1952, on Mr. J. F. Wallace's Motion which sought to amend the Vestments Canon back to the Reformation position, only 45% of the total membership attended. And yet it was claimed that the motion had been rejected by a large majority of the lay representatives of the Church of England (no count was taken unfortunately). Further analysis shewed that only 29% of the Northern Province's and only 54% of the Southern Province's lay representatives attended. Put in another way, assuming that each Member of the House of Laity represents about 8,695 church members,

those absent should have been representing 1,650,000 lay Churchmen who were thus virtually disfranchised in matters of vital and far-reaching importance for the Church of England. Two Northern Dioceses were unrepresented, Durham had only 1 out of 16, York 1 out of 10 and Blackburn 2 out of 11 possible, present. On another occasion when a count was taken during an important Canon Law debate only 40% of the full membership of the House were present.

Is it not clear that, when such poor percentages of Members attend vital Special Sessions of the House of Laity, the great body of lay Churchmen have sound grounds for claiming that they are inadequately represented under the present system? Equally clearly, until it has been established that a really effective and truly representative alternative has been provided, the laity of the Established Church cannot afford to abandon their historic right to a final say through Parliament.

Future Action

While the views expressed above have been kept in the forefront as opportunity offered, it is only fair to point out that many individual clergy in Convocations, some of them eminent, have expressed views much in accord with ours. In view of the emergence of this more enlightened clerical outlook Mr. Goyder's Motion calling for a Committee on Synodical Government in the Assembly on 11 Feb. 1953, was introduced at the psychological moment. This was seconded by Canon Addleshaw of York, himself a member of the Commission on Canon Law and an acknowledged authority in such matters. Canon Smethurst, Secretary of the Canterbury Convocation, moved an amendment to admit of the appointment of a Commission and consultation with the Convocations, but in full support of Mr. Goyder's object. The Bishop of Derby made a powerful speech in support including these words: "There was the further anomaly that in the Anglican Communion at present the provinces of Canterbury and York stood in an unenviable isolation as being the only provinces in which the laity had no voice in the spiritual side of Church government." Professor Sykes said: — "either they must accept the principle of the Latin Church, which was well expressed in the aphorism of an eighteenth-century Anglican divine, 'The people have nothing to do with the laws except to obey them', or they must accept the principle of the Anglican Church since the Reformation, that the laity had a proper right to share in the formulation of the doctrine, liturgy and discipline of the Church." Mr. Goyder withdrew his original motion and substituted the following: "That the Assembly respectfully requests the Archbishops to appoint a Commission (including representatives of the Convocations) to consider how the Clergy and Laity can best be joined together in the synodical government of the Church, and to report." Seconded by Canon Smethurst this Motion was carried by a large majority and the Archbishop of Canterbury said that he and the Archbishop of York would be glad to accede to this request. After lengthy but unavoidable delay the appointment of the Commission was announced in mid-1954 under the Chairmanship of the Dean of Christ Church, Oxford. From the point of view of the laity of the Church of England this step may well prove to be one of the most important taken since the Reformation, and we should all support the members of this Commission by our prayers that they may be led by the Holy Spirit to wise decisions.

In view of what has been described earlier, it will be obvious that radical improvement in the representation of the laity, both in personnel and attendance, is essential if the proposed lay partnership in Synodical Church Government is to replace satisfactorily the present lay voice through Parliament. The solution of this knotty problem is, fortunately, not the responsibility of the present writer. It does seem inescapable,

however, that unless, and until, the good will of employers, pecuniary re-imbursement for lost working time and subsistence expenses, can be secured for all lay representatives *who need them*, the same difficulty in widening the field of potential candidates must continue. Another major handicap is the lack of a real contact or recognized path of communication between the "man-in-the-pew" and his representative in the House of Laity such as exists between an M.P. and his constituents. The effect is detrimental to both parties as the Member has little or no means of 'sounding' those whom he represents and the great majority of the latter have no idea who their representatives may be, and still less how to bring to bear upon them expressions of opinion on current Assembly matters, or others which should be raised. The method of election adopted for lay representatives to any joint Synod, should this eventually materialize, will have to be more direct and restricted to a narrower area of 'constituency' than is now often the case. Where elections are now held on an archidiaconal basis, the elector has a reasonable opportunity to know, or know something about, the candidates, particularly if those chosen are already members of Ruridecanal, and Diocesan, Conferences. After election on this basis to the last Assembly, one was somewhat surprised to learn from other members, of the methods hitherto followed in selecting, and electing, representatives in some Dioceses. In one, it was gathered, no lay representative stands any chance unless he, or she, is a very well-known public figure. In other cases members were elected who were members neither of Ruri-decanal nor of Diocesan Conferences, but were unknown to, and unknowing of, their electors. The shortage of people willing, and able, to spare the time for Assembly Sessions has an obvious bearing on this state of affairs and emphasizes the magnitude of the laity's problem.

The Draft Revised Canons

Let us now make an inevitably brief survey of those draft Revised Canons which are considered of special importance to the laity, or to involve matters of vital scriptural truth and principle for the whole Church. Those less important and others covering very largely either uncontroversial matters or Clergy only, will be ignored, though it may be thought, with justification, that many, if not all, these rules and regulations and constant references to the Bishop for permission, etc., could well have been dispensed with in this day and generation. They can hardly contribute much towards the conversion of a largely unbelieving generation before the Lord returns! It is, indeed, the view of many Churchmen that there is no need for this revival of medieval Canon Law at all and that many of the revised Draft Canons indicate a new attempt to restore the autocratic clericalism of those days—a thoroughly retrograde step.

Canon 5. Of the Doctrine of the Church of England

This claims that "the Doctrine of the Church is grounded in the Holy Scriptures and in the teaching of the ancient Fathers and Councils of the Church agreeable to the said Scriptures, and in particular is to be found in the Thirty-nine Articles of Religion . . ." But Article VI says that "Holy Scripture containeth all things necessary to salvation", i.e., Scripture alone is quite adequate. Article XXI points out that General Councils "sometimes have erred, even in things pertaining unto God". Dr. Stokes in his speech in the House of Laity supporting the author's attempt to have omitted all reference to the ancient Fathers, pointed out that 17 ancient Fathers regarded Peter himself as the "rock", 44 regarded Peter's faith as the "rock", 16 regarded our Lord Himself as the "rock", and 8 considered that the "rock" meant all the apostles. And yet the House of Laity rejected the motion and then agreed to the draft

Canon! This canon has assumed special importance in view of the recommendation of the Ecclesiastical Courts Commission (p. 53), that in all doctrinal cases the criteria should be "the sources of the doctrine of the Church of England being defined in the draft Canon V". This Canon must be attacked again when it comes back to the House of Laity, or the Assembly.

Canon 6. Of the Government of the Church of England

This omits all reference to the laity's part, but has been deferred on the author's motion to await the report of the Commission on Synodical Government.

Canon 9. Of obedience to the Law of the Church of England

This is the penal Canon which, if it becomes law, will provide sanctions for use against members of Parochial Church Councils, Ruridecanal and Diocesan Conferences, and the House of Laity if they "neglect to observe" the "Law of the Church of England" already defined (in Canons 7 and 8) as "these present Canons". Any such penalties are to be enacted by the "Courts of the Church of England only" and may include ex-communication. Curiously, the wording of the recommendations of the Courts Commission (p. 53) appears to exclude the laity, except, possibly, lay readers. Consideration of Canon 9 has been postponed until all the Canons, including those on Church Courts, have been considered.

Canon 13. Of Lawful Authority

This would permit the introduction of experimental deviations, for a period of seven years, from the liturgical forms of the Book of Common Prayer as allowed by the Convocations, provided that a majority of two-thirds approves in both Convocations and House of Laity. No indication is given that Parliamentary sanction will be sought to make permanent any experimental scheme, but extensions for seven year periods can, apparently, be repeated indefinitely if the two-thirds majorities are obtained. Although these proposals of the Church and State Commission have been accepted by the Assembly they have not yet been before Convocations.

Canon 17. Of the Vesture of Ministers. This permits the wearing of "an alb with the customary vestments" by the Celebrant at Holy Communion. These are the dress of a sacrificing priest and are definitely so defined in the Church of Rome, which is the pattern from which they have been taken. Despite Section 5, which states that the C. of E. does not attach any particular doctrinal significance to the diversities of vesture, neither Evangelicals nor Anglo-Catholics believe this. The canon is due for return to the House of Laity after consideration by Convocations of Mr. Goyder's motion to ensure that any substantial change of vestments shall first require the goodwill of the Parochial Church Council, when it should be opposed as strongly as possible. We know that an attempt was recently made by certain bishops to enforce the wearing of the illegal white stole by ordinands.

Canon 21. Of the Holy Communion. Section 2 purports to forbid the admission to Holy Communion of all persons who have not been confirmed, except by special permission of the Bishop, thus applying a long-standing rule for Church members to Christians of other denominations, denying them fellowship at the Lord's Table, and hindering progress towards re-union. Debate on this has been adjourned.

Canons 35 and 65. Of Confession of Sins and Hearing Confessions

These envisage the reinstatement of the Confessional, though the wording of the former, derived largely from rubrics, is difficult to contest. The increasing tendency towards clericalism fostered by Anglo-

Catholics should be a warning of the ease with which permissive canons may become compulsory when Convocations have no effective lay check through Parliament.

Canon 38—(now M.3). Impediments to Matrimony. Section 2 forbids the marriage in Church of any divorcee, regardless of their 'guilt', and deprives the Minister of his hitherto admitted right of discretion. This strict prohibition does not appear to be warranted by Scripture though it is in line with the Roman Church's official policy (if not its practice!).

Canon 69 A. Declaration of Obedience to . . . Canons Ecclesiastical

This is an appalling new introduction by Convocations of a demand never previously enacted, for blind obedience to any new canons which the clergy alone in Convocation may see fit to introduce, as well as to all the present Canons, with some of which Evangelicals can never agree. Refusal to make this promise, or alleged failure to keep it would bring down on the offender the penalties in Canon 9 and, presumably, action in the proposed Ecclesiastical Courts. There is no safeguard requiring that the unknown canons shall be in accordance with Holy Scripture. This new canon denies the right of every man to act according to his conscience. While this applies to clergy, apparently, it is of vital interest to Evangelical laity because, if it is passed, clergy who cannot conscientiously subscribe to this canon will be unable to move from their present livings and Evangelical ordinands will virtually be debarred from entering the Church of England. It is anticipated that, if this Canon becomes enforceable it could cause the inevitable resignation of from 5% to 10% of the ordained clergy who cannot conscientiously adopt the Roman expedient of "mental reservation" by which some Anglican clergy "explain" the discrepancy between their ordination vows and their Romish practices. The effect on potential ordinands must be a most powerful deterrent, and one can only wonder at the failure of Convocations to see such simple facts for themselves—or did the majorities?!

Canon 99. Of the Communion Table. This re-introduces the permission of stone tables. This is contrary to the principles adopted at the Reformation when an order was issued to remove stone altars and to supply tables, of wood, which is the proper material. The Communion table is not an altar and is never so described in the Prayer Book. This Canon is part of the general effort to introduce the sacrifice of the Mass into the Church of England, by facilitating the misuse of the Holy Table as an altar.

Canon 126. Of National and Provincial Synods. This amazing example of the desire for reversion to the medieval clericalism so apparent throughout the original 1947 Report calmly states: the "Sacred Synods of England . . . are the true Church of England by representation, and have power to make Canons, Constitutions, and Ordinances, to decree Rites or Ceremonies, and have also authority in controversies of Faith". The Canon defines the Synods as the Convocations of Canterbury and York, sitting separately, or together. But where are the laity? Over 40% of the membership of Convocations consists of Ecclesiastical Officials, Bishops and representatives of the parochial clergy providing the balance. This canon is, it is contended, contrary to Scripture in defining the Church as comprised of Bishops and Clergy only while omitting the laity, and it is certainly in conflict with Article 19 which, as mentioned earlier, defines the Church as "a congregation of faithful men, in which the pure word of God is preached . . . Article 20 says that "the Church" has authority in Controversies of faith, therefore the Clergy without the laity *cannot* decide on the issue of any controversy. Nowhere in the New Testament do we find any suggestion that the

Bishops and other Clergy alone form the Church. This canon is based on a fundamental error and should be resisted to the uttermost, but it is to be hoped that it will be silently interred by Convocations in view of the setting up of the Commission on Synodical Government.

A strange and unexplained feature is the omission of any reference to Reservation of the Sacrament, despite the almost ludicrous minutiae furnished on many far less important subjects. Perhaps this will be dealt with among the unknown future Canons to be agreed blindfold under Canon 69 A!

Conclusion

The vast field of this subject has, alas, defeated the author's good intentions on brevity, but it is hoped that those who have endured thus far will have realized how vital for the future of our beloved Church is the next five-year term of the new Church Assembly and House of Laity. Unless we all with one accord remember constantly at the Throne of Grace those who represent us, we may well be faced with a serious situation inflicting lasting harm on our National Church of England and permanently reversing the Reformation Settlement. Apathy and indifference are, as so often, the greatest enemies, but the price of liberty remains, as ever, eternal vigilance.

C. W. FINNEY.

CHAPTER IV

THE VESTURE OF MINISTERS

Draft Canon 17 reads as follows:

Of the Vesture of Ministers during the Time of Divine Service

1. At Morning and Evening Prayer the Minister shall wear a cassock, a surplice, and a scarf: and for the Occasional Offices a cassock and a surplice with scarf or stole.
2. At the Holy Communion the Celebrant as also the Gospeller and the Epistoler, if any, shall wear with the cassock either a surplice with scarf or stole, or a surplice or alb with stole and cope, or an alb with the customary vestments.
3. On any appropriate occasion a cope may be worn at the discretion of the Minister.
4. When a scarf is worn, the Minister may also wear the hood of his degree.
5. The Church of England does not attach any particular doctrinal significance to the diversities of vesture permitted in this Canon, nor sanction thereby any doctrines other than those contained in its formularies.
6. Surplices for the use of the Minister are to be provided and kept clean at the charge of the Parochial Church Council.

The new Canon has this virtue, that it would end the disputes which have persisted during the last century over the Ornaments Rubric, found before Morning Prayer. It would permit apparently, all that the 1549 Book allowed, without the liberty which that book conceded of not wearing any vestment at all on some occasions. The phrase "an alb with the customary vestments" implies presumably the vestments which are customary in the Roman ceremonial, because at present there is nothing customary in the Church of England, not even the surplice. We can visualize the interpretation of the word "customary" giving endless scope for variety of argument and practice, in the coming years, if the Canon should become law.

We do not think that chaos can become a standard or guide, and that is what Canon 17 proposes. It reflects the present confusion in the church over the matter of ministerial vesture. The dress of the clergy within the church is nearly as varied and unpredictable as their attire without. Some may look upon that as one of the characteristic marks of the Church's comprehensiveness. We note, however, that it is still thought necessary to enforce the wearing of some ecclesiastical vesture, even though the range of choice has been extended. Comprehension can stretch to include the man who wants to wear the Mass vestments, but there is no relaxation towards the man who may object to the surplice. Diversity is to become canonical, and uniformity only a possibility among the non-conformists. Whatever particular style you may adopt, the Canon says, the Church will not commit itself to give vesture any doctrinal significance. Why it should be necessary to wear any other garb from that of ordinary mortals in the performance of religious services, is not even hinted at. The attempt is made to remove the whole question from the realm of controversy by pretending that it is possible to legislate in a vacuum. Much as we would like to think that we could start from scratch in this matter, or that we could end all the unhappy

squabbles of the past by such a law, we must face the facts which Canon 17 betrays but does not seek to remedy.

The Oxford Movement

Whatever our interpretation of the Ornaments Rubric may be, whether we believe that it permits the wearing of the Mass Vestments, or not, we cannot but admit that the revival of their use in the Church of England came about in the middle of last century as a result of the Oxford Movement. The men who re-introduced them did so with a set purpose. The wearing of vestments in the conduct of Holy Communion coincided with the revival of teaching about the Sacrament which had not been heard in the Church of England since the Reformation. The Archbishop of Canterbury (Dr. Longley), in an answer to an address from the members of the National Club on 19th February, 1867, said:—

“With an anxious desire to follow after that charity which thinketh no evil, I now find it impossible to evade the conviction that among those who are joining in the present movement for the restoration of Eucharistic Vestments, the use of incense and candles in the day time, the offering of the Holy Sacrament as a propitiatory sacrifice, and the elevation of the consecrated elements for the worship of the people, there are many who are resolved, if possible, to obliterate in the formularies and worship of our church every trace of the Reformation.”

The Archbishop of York (Dr. Thomson), in his reply to a lay deputation in 1866, used the following words:—

“The use of strange vestments and ceremonies, which neither we nor our fathers have seen, has often been spoken of as childishness and frivolity. I have never been able to regard it from its ridiculous side. I believe it has gone along with a deliberate intention to alter the doctrinal position of the Church of England, by introducing into our services ornaments, vessels, and gestures, which are not prescribed in our order of Common Prayer, and which not being prescribed, are, in effect, excluded from it.”

The Archbishops in 1851 (Sumner and Musgrave), with 22 Bishops, issued an address condemning the rising tide of ritualism and lawlessness. In dealing with the plea that the Ornaments Rubric permitted a wide diversity, such as the new canon would legalize, they wrote:—

“We believe that at the Reformation the English Church not only rejected certain corruptions, but also without in any degree severing her connexion with the ancient Catholic Church, intended to establish one uniform ritual, according to which her public services should be conducted. But it is manifest that a licence such as is contended for is wholly incompatible with any uniformity of worship whatsoever, and at variance with the universal practice of the Catholic Church, which has never given to the officiating ministers of separate congregations any such large discretion in the selection of ritual observances.”

The re-introduction of the Mass Vestments destroyed the uniformity of the Church's ceremonial observances, but this in itself might not have been considered a grievous loss, if it could have been dissociated from the implication of doctrinal change and emphasis. Neither the advocates nor the opponents of the reversion to pre-Reformation practices treated the issue as relatively unimportant. In fact the members of the Royal Commission on Ritual in 1867 dealt with the subject as a priority. They said:—

“We, your Majesty's Commissioners, have, in accordance with the terms of your Majesty's Commission, directed our first attention to the question of the Vestments worn by the Ministers of the said United Church at the time of their ministration, and especially to those the use of which has been lately introduced into certain churches.

"We find that whilst these Vestments are regarded by some witnesses as symbolical of Doctrine, and by others as a distinctive Vesture whereby they desire to do honour to the Holy Communion as the highest act of Christian worship, they are by none regarded as essential, and they give grave offence to many.

"We are of opinion that it is expedient to restrain in the public services of the United Church of England and Ireland all variations in respect of Vesture from that which has long been the established usage of the said United Church, and we think that this may be best secured by providing aggrieved parishioners with an easy and effectual process for complaint and redress." (First Report of Royal Ritual Commission, dated August 19th, 1867.)

Now, after nearly a century, aggrieved parishioners are still without any means of redress. Multitudes of them have adopted the easy and sometimes only form of protest open to them, by absenting themselves from the services of the church, at which the still strange vestments are worn. The new canon will seek legally to kill uniformity by permitting a wide diversity which it cannot regulate. At the same time, it seeks to close the debate on the significance of the extra vestments at Holy Communion, by saying that the church has not any view on the matter. Can such a law have any possible effect upon the present chaotic condition of ceremonial in the church? Perhaps it is not meant to. We frankly feel that it is not worth promulging such an indecisive pronouncement.

Is Uniformity Desirable or Possible?

The ministers of Christianity, it would seem, have always been very conservative in matters of dress! Their very conservatism in the retention of old-fashioned clothes, has led to this whole problem of vestments. The garments about which there is so much dispute to-day, are all secular in origin, and only became the distinctive fashion amongst the clergy because they still wore them when other members of society had ceased to use them. A modern illustration of the same thing, is the custom among some non-conformist preachers of wearing a black frock-coat for preaching services. The frock-coat which was once the common everyday dress of all classes above labourers, has now been preserved for formal occasions by lay people, and religious services by some Free Church ministers. There is nothing significant in a black coat and striped trousers, but if in the course of time only ministers should wear them, and that on special occasions, and if, also, such ministers taught by some special ceremony when they were ordained that the coat and trousers signified the nature of their ministry, then we might have to consider seriously the question whether they ought to be allowed to wear such old-fashioned garments. That, in brief, is what has happened, we believe, with regard to the garments now known as the Mass Vestments. They were not religious in origin like the priestly garments in Old Testament times. The late Dom Gregory Dix wrote:—"All over Christendom ecclesiastical vestments derive from the lay dress of the upper classes in the imperial period, and not from any return to Old Testament precedents such as the medieval ritualists imagined." He traces the chasuble, turnicle, and alb to the common Roman garments, and refers to the contemporary account of the martyrdom of S. Cyprian in A.D. 258 which describes how he divested himself, at the place of execution, of his red lacerna (chasuble), and tunica (tunicle) and stood up in his linea (alb) awaiting his executioners. "These", he writes, "are in essentials the pontificals of a medieval bishop. But Cyprian is wearing them simply as the ordinary lay gentleman's dress of the day". He also comments on a contemporary portrait of Pope Gregory I (A.D. 600) standing between his father and mother, in which the costume of

all three is the same—the chasuble worn over the tunic with the ungirded linen alb. It was the definite policy in the fourth and fifth centuries that the liturgy should be celebrated always in the garments of everyday life. The use of symbolical liturgical vestments like those of the Old Testament priests was deliberately avoided. What turned this clothing into a special liturgical vesture was mere conservatism. When the layman finally changed in the sixth and seventh centuries to the new barbarian fashions, the clergy retained the old civilized costume. By stages, the clothing which the clergy retained through their conservatism became official and then symbolical. (See G. Dix, *The Shape of the Liturgy*, Ch. XII.)

Ancient Practice

If we are to reconsider the whole question of the dress of the clergy in church or out of it, surely we must be guided by the practice of primitive days, and particularly by any principle or principles which we can discover in the New Testament. For centuries after the foundation of the Church no Christian minister of repute sought to adopt any special uniform in the conduct of worship, or to attribute significance to the garments he wore. He wore them for covering, convenience, and decency. The Canons of 1603 when they sought to legislate for the dress of the clergy both in church and at home and abroad, obviously considered only questions of decency and comeliness. Canon 58 speaks of a decent and comely surplice with sleeves, and says that any question touching the matter, decency, or comeliness thereof shall be decided by the Bishop. Canon 74 gives not only regulations for outdoor dress but even descends to describing night-caps which are permitted or taboo. "In all which particulars concerning the apparel here prescribed", it says, "our meaning is not to attribute any holiness or special worthiness to the said garments, but for decency, gravity, and order, as is before specified". It is clear that the Canons of 1603 considered only questions of decency and comeliness in legislating about the dress of the clergy.

Most Christian ministers would agree that some distinctive fashion of dress is useful as a badge in public places. But to-day, apart from the clerical collar, there is no attempt at uniformity. As a rule the clergy of all denominations dress as soberly as the average professional man. The proposed new Canon 82, "Of the Dress of Ministers", apart from mentioning dress suitable to the gravity of the office of a minister, and such as shall be a sign and mark, does not attempt to create a fashion, or stabilize a fashion, or interfere with the possible change of fashions. In that it is wise. If Canon 17 had only adopted a similar line with equal liberty and indifference its position would be unassailable. Why should some ministers want to wear garments in Divine Service which were originally the common dress of the middle classes in the Roman Empire? They can only wish to do so, either because they think they have a significance which they had not then, or because they believe they are particularly becoming. The latter may not be a very compelling motive, but it is at least understandable.

Sartorial or Sacerdotal?

When Hooper refused consecration to the Bishopric of Gloucester according to the 1550 Ordinal because some of the old vestments and ceremonies were retained, he did so because he believed they were irretrievably identified with the errors of Popery. Bishop Ridley and others sought to bring him to a better mind by saying that such vestments were things indifferent, and that anyhow they were commanded by the King and should be submitted to in deference to his authority. The Prayer Book of 1552 removed all such scruples by making the surplice, hood, and scarf, the only necessary vestments for the ordinary

clergy in their ministrations. With the rise of the Puritans the wearing of the surplice became a matter of contention. They used the strongest language about it, speaking of it as "a mark and a very sacrament of abomination; that remaining, it serveth as a monument of idolatry, etc., etc." Hooker on the other hand, justifying its retention, writes:—

"The attire which the minister of God is by order to use at times of divine service being but a matter of mere formality, yet such as for comeliness-sake hath hitherto been judged by the wiser sort of men not unnecessary to concur with other sensible notes betokening the different kind or quality of persons and actions whereto it is tied; as we think not ourselves the holier because we use it, so neither should they with whom no such thing is in use think us therefore unholy, because we submit ourselves unto that, which in a matter so indifferent the wisdom of authority and law hath thought comely. To solemn actions of royalty and justice their suitable ornaments are a beauty. Are they only in religion a stain?" (*Eccles. Polity*, Bk. V, 29.)

Hooker, in other words, justified the use of the surplice from its suitability, and as a decent and comely garment. He sought no scriptural grounds for its use, but believed the Church had power to decree its use, as other ceremonies, which were not contrary to God's word.

The surplice is not an Eucharistic vestment in the unreformed Church. The proposed new Canon permits the celebrant to drop its use at Holy Communion in preference for the alb, chasuble, etc. Could Hooker have defended such practices by the same arguments which he uses for the surplice? The fact that he had not to defend the use of such vestments, and that the Puritan objectors do not write of their use amongst the clergy, is a very important historical factor in the interpretation of the Ornaments Rubric. He and they knew that the Church of England had forbidden the use of such vestments, because they were unmistakably identified with the Roman doctrine of the Mass both by usage and rite.

We know there are many to-day who use the Mass Vestments but who do not fully accept the Roman doctrine. Some justify their use of vestments on the grounds that they add colour and beauty to the service. If that be their sole reason for their use they show an extraordinary lack of imagination in confining themselves to such a limited selection, and going always to the Roman wardrobe for their millinery. Others point to the Lutheran churches, which have retained in various degrees the use of vestments, as an evidence that one can be protestant and yet use such ceremonial. They forget two things: one, that the Lutheran doctrine of the Sacraments is not ours, and the other, that the Lutherans never dropped the Mass Vestments, whereas we did, and that with us the revival of their use has been fostered mainly by those who wished to reverse the movement of the Reformation.

Vestments and Ordination

There is a grave question, which the possibility that the proposed Canon may become law must raise in the mind of everyone who accepts the Reformed character of the Church of England, and that is: What use will be made, by some Bishops, of the Vestments in future ordination services if they should be legalized? Will it be possible, even within the framework of our present service, to make vesting with the Mass Vestments a ceremony? Will it not be possible for a bishop, who holds the sacerdotal theory of the ministry, to alter the whole appearance, and therefore significance, of an ordination by the compulsory use of vestments? We know that many men have in recent years had their ordination time spoiled by the attempts of some bishops to compel them to be vested with a white stole for ordination. In some cases the vesting

was an actual ceremony in the rite. Would the new Canon permit this introduction of the old pre-Reformation vesting into our present service?

In some pre-Reformation pontificals the power to offer sacrifice was connected with the vesting of the newly ordained presbyter in the chasuble. Now the Roman Church places the chief emphasis on the delivery of the instruments (i.e., paten and chalice) as the main expression of her intention in ordination. Nowhere has the true mind and intention of the Church of England about the nature of the ministry been better expressed than in the changes in the Ordinal. The words of the late Bishop John Dowden on this subject are so significant that we quote them at length:—

“While the chief emphasis of thought in the pre-Reformation books is on the function of the priest as one who offers sacrifice for the quick and the dead, the emphasis in our reformed Pontifical is on the pastoral office of the priesthood. This appears in the *language*; it appears also in the *ceremonial* of the two rites. In the pre-Reformation bishop’s address as to what pertains to the office of a priest the first word that occurs is *offerre*: ‘Sacerdotium oportet offerre, benedicere, praesse, praedicare, conficere, et baptizare.’ In our service book we look in vain (and it is really a very remarkable feature) for any reference to the Eucharist, except as included in the general term of ‘the Sacraments’:—‘Be thou a faithful dispenser of the Word of God, and of His holy Sacraments’; ‘Take thou authority to preach the Word of God, and to minister the holy Sacraments!’”

Having commented on the change from the delivery of the instruments to the delivery of the Bible he continues:—

“Again in the old rite the chasuble was placed on the person ordained; and he was bid ‘Receive the sacerdotal vestment’. This, also a striking piece of ceremonial, was removed even from the first Ordinal of Edward VI. The candidate for deacon’s Orders and the candidate for a priest’s Orders were each alike to be vested in ‘a plain albe’; and in ‘a plain albe’ they both alike remained to the close of the service . . .”

“It is obvious that the alteration of the reformed English Ordinal is deep and sweeping. The real way of estimating its effect is to read first the Sarum Pontifical for the Ordination of Priests and then to read the two Edwardine forms, and the form at present in force as revised in 1661. Anyone with the least sense of literary forms is at once struck by the greatness and depth of the change . . .”

“No longer is the chasuble given, no longer is the chalice and the bread delivered. What is the ceremonial which has taken the place of the *porrectio instrumentorum*? It is the delivery of the Bible.”

Bishop Dowden agrees that the Bull *Apostolicae Curae* of Pope Leo XIII does not overstate the significance of the changes in the Ordinal when it says:

“In the whole (English) Ordinal not only is there no clear mention of the Sacrifice, of consecration, of the sacerdotium, and of the power of consecrating and offering sacrifice, but every trace of these things, which had existed in those prayers of the Catholic rite not wholly rejected, was deliberately removed and struck out.”

Can we, in the face of these facts known to every moderately informed student of the history of our Liturgy say that the Church of England does not attach any particular doctrinal significance to the wearing of the Mass vestments? The statement of the proposed Canon is an attempt to escape from the facts of our own history and to stretch the language of a hollow compromise over the canonization of chaos. The Church today

may be in confusion but the Church of England in her history has definitely expressed her mind on this issue.

False Colours

The attempt to pretend that vestments do no matter is just the inversion of Nelson's act in putting the telescope to his blind eye so that he might not see the signal to desist from the fight. It is clear that the present attitude of looking at this problem with a blind eye is felt to be the only way to preserve the small measure of peace we have, or hope for. But can it succeed? We do not think so. In a world in which coloured shirts have meant so much in recent years, and in a society in which school ties and badges still can mean so much, we must not appear, to ourselves even, not to know where we belong. One can go into any of our Church bookshops and buy books large and small on the significance of vestments, and in our private minds we may believe what they say and agree or disagree, but in our official minds as members of the Church we must say these things just have not got a meaning for us all together. It is obvious that we are not in a position to make Canons on this subject. But we cannot say the matter is indifferent.

Scripture not Neutral

The Puritans were wrong in looking for a scriptural text for every ceremony because such a support cannot be found. On the other hand scripture has much to say directly and by inference on this question of vestments and the conduct of worship. The first clear and unmistakable fact is the contrast between the Old and New Testaments. In the Old we have a religion of symbol and ritual with vestments and ceremonies. In the New a religion of fulfilment and realization in which symbolism is reduced to the two sacraments of the Gospel and where the need for vestments is not even hinted at. Ritualism and ceremonialism are damned with faint praise in the New Testament. The early Christian worship was based on that of the synagogue with its freedom and liberty and lack of any ceremonialism. Our Lord's condemnation of the Scribes and Pharisees who loved to go about in long robes and to be seen of men and accorded official titles, preserved the Church for a long time from any emphasis on outward observance. The Apostolic writers, following the example of the Old Testament prophets, moralize and spiritualize the garments and outward expressions of religious devotion. As late as A.D. 425 we find Pope Celestine I rebuking the bishops of the South of France, among whom the use of the pallium and girdle at the Eucharist was already customary. "It is small wonder that the Church's custom should be violated by those who have not grown old in the Church, but entering in by some other way have introduced into the Church along with themselves things which they used to wear in another walk of life (i.e., the magistracy, from which so many bishops were then recruited). . . . Perhaps men who dwell in distant parts far from the rest of the world wear that dress following local custom rather than reason. Whence came this custom in the churches of Gaul, so contrary to antiquity? We bishops must be distinguished from the people and others by our learning not by our dress, by our life not by our robes, by purity of heart not by elegance." (Quoted in Gregory Dix: *The Shape of the Liturgy*, Ch. XII). The emphasis of ceremony as well as rite must tend to spirituality and the increase of true godliness and the avoidance of superstition. The Prayer Book preface and darkens rather than sets forth Christ's benefits unto us. It continues: "Of Ceremonies" rightly declares that excessive ceremony confounds "Christ's gospel is not a Ceremonial Law (as much of Moses' Law was) but it is a religion to serve God, not in bondage of the figure or

shadow, but in the freedom of the Spirit.” Following that principle stated first in the preface of the 1549 book the later books dropped the Mass vestments. Can we feel that their restoration now would minister to an increase of godliness and instruction in the Christian religion? Can we even feel that their more general use would be an aid to more reverent worship?

Dress and Distraction

What fussiness and irreverence are introduced into worship by the increase of vestments! How difficult it must be to concentrate on the essence of worship, if one has to overload oneself with extra garments, and attend to all the minutiae of directions and customs which seek to regulate and give significance to such paraphernalia! For whose sake are the vestments worn, the celebrant's, the worshippers' or for God's sake? Does not the appearance of ornate ceremonial rather distract the attention of the worshipper than direct it to the unseen and eternal realities? Even the birds of paradise wear their glorious colour as a camouflage and to make them indistinguishable from their background. Is not the ideal for all ministry within the sanctuary, “He must increase, I must decrease”? Why should the vestments be multiplied at the most sacred service at the Lord's table, when the message for the eye is chiefly in the bread broken and the wine poured out, according to Christ's ordinance? Often the God-ordained symbols are the least distinguishable features of the rite. Ceremonialism tends to turn the sacrament into a dramatic re-enactment of the offering of the crucified in a glamorized setting. We have even heard of beautiful crosses. Our present Communion Service with its strong emphasis on penitence and personal faith hardly fits such surroundings. The comparative silence of a mumbled rite or a dead language is more in keeping with such miming. We must guard against anything that would turn the worshippers into mere spectators. The most convincing and converting power in Christian worship is the spiritual animation of a congregation. Make-up in the chancel is a poor substitute for vitality in the pew. There are still many spiritual cripples who sit before the Beautiful Gates of our temples; what they need is a word and touch of Apostolic power, not another sight of the High Priest in his garments of glory and beauty.

RICHARD J. COATES.

CHAPTER V

IMPLICATIONS OF THE MARRIAGE CANONS

The Marriage Canons are of special concern to the laity as well as the Clergy, for they directly affect the lives of ordinary people at a point where they are most sensitive. Sound and happy marriages are vital to the stability and well-being of our country, and marriage is one of the most fruitful vocations in which people may serve God in the world. The Church of England has a special responsibility in making her marriage laws, for she is legislating not only for committed Christians but also for a host of people with little understanding of Christian faith and life, who yet desire the Church's ministrations. As the National Church she has the pastoral care of the people.

No possibility of a dual standard

It has sometimes been suggested that the Church should only concern itself with its own members, being free to make its own rules for Christian Marriage and leaving the State to make the laws for ordinary marriage. But this would be a departure from Christian teaching. In our Lord's recorded words, He was not giving new teaching about marriage, still less was He creating another kind of marriage which can be called Christian marriage. He is giving the key for the proper understanding of the fact of human marriage. Revelation gives insight into the meaning of nature: it does not replace nature by something else, but brings it to perfection. Christian marriage is more than non-Christian marriage, but it is not a different thing.

People take much more notice of what the Church does than of what she says and it is important that her laws should plainly express the nature of the Gospel and the teaching entrusted to her.

The Moral Problem

In this the Church is faced with a serious moral problem by the great increase in the number of broken marriages. In 1953 there were 30,326 divorces besides many legal separations. The laws of our country still define marriage as a life-long union, but there is the danger that divorce on so large a scale will lead people to think that a marriage can be terminated if it proves to be unsatisfactory, difficult, or unhappy, or, worse still, that it is a contract which can be terminated by the consent of the two partners. If this became the general public opinion and was expressed in the laws of our country, "marriages" would be temporary unions and the Church would be unable to recognize them as true marriages. The Church has a duty to Christ and to our country to teach plainly the true nature of all marriages, and to express this teaching in her laws. Yet at the same time the Church is entrusted with a Gospel of redemption by which, however bad the sin or failure may have been, people can make new beginnings. When a first marriage has been destroyed beyond recovery, there are many people who in good conscience seek a second marriage, and there are some who feel that it should be a truly Christian marriage as the first was not. These are the people for whom the Church has a special responsibility. Experience has shown that many marriages after divorce, entered into with faith, bear all the marks of God's blessing. The Church must be careful that her laws do not work against the grace of God.

The Church has a duty both to witness to the truth about marriage

and to act redemptively towards those who have failed. These duties sometimes appear to conflict, and it is not surprising that there is a difference of opinion in the Church about the way in which one may be done without neglect of the other. The Canons must be judged by their effectiveness in doing this.

The Proposed Canons

The marriage Canons have been altered considerably by the Conventions. The draft Canons were numbered 36-43 in the Report and have been re-arranged as Canons M.1-6 in their revised form. We are only concerned with 1 and 3, as the other Canons simply express the common practice of the Church, but for information they are all noted here:—

Canon M.1 (36). The Nature of Holy Matrimony.

Canon M.2 (38, secs. 2-5). Certain impediments to Marriage, e.g., lack of proper consent for a minor to marry; being under 16 years of age, or within the prohibited degrees of affinity.

Canon M.3 (37 and 38, sec. 1). Certain impediments to the Solemnization of Matrimony, i.e., being unbaptised or divorced.

Canon M.4 (39). The duty of the Minister to inquire as to impediments.

Canon M.5. Requirements preliminary to the Solemnization of Matrimony. E.g., banns, licences and superintendent registrar's certificates.

Canon M.6. Rules to be observed in the preliminaries and the Solemnization. E.g., the hours during which a marriage may be solemnized, and the need for at least two witnesses.

N.B.—Canons M.5 and 6 summarize the Canons numbered 40, 41 and 42 in the Report.

Canon 43. Rules for a service after Civil Marriage.

The Nature of Marriage

This is very finely expressed in Canon M.1, which reads as follows:—
“Of Holy Matrimony”

1. The Church of England affirms, according to our Lord's teaching, that marriage is in its nature a union permanent and life-long, for better for worse, till death do part, of one man with one woman, to the exclusion of all others on either side, for the procreation and nurture of children, for the hallowing and right direction of the natural instincts and affections, and for the mutual society, help and comfort which the one ought to have of the other, both in prosperity and adversity.

2. It shall be the duty of the Minister, when application is made to him for Matrimony to be solemnized in the church of which he is the Minister, to explain to the two persons who desire to be married the Church's doctrine of marriage as herein set forth, and the need of God's grace in order that they may discharge aright their obligations as married persons.

This is an improvement on the first draft for it removes the ambiguous word “indissoluble”, replacing it with the word “permanent”. It also conforms more closely to the wording of the introduction to the Marriage Service.

Such a statement of the Church's teaching will commend itself to all Christians, but there will be differences of opinion about the implications which follow from it when re-marriage after divorce is discussed.

The statement describes marriage as a fully personal relationship

for the fulfilment of certain purposes, and is based upon Our Lord's teaching in the Gospels. Our Lord referred back to the Genesis stories when mankind is created male and female for the procreation of children and for mutual society and help (Gen. 1: 27, 28 and 2: 18). For this reason they are to cleave together and become one flesh, and for this reason their union is to be permanent and exclusive. It is obvious from experience that the purposes of marriage are only properly fulfilled when the marriage is both permanent and exclusive. These qualities are the God-given setting for the deepest personal relationship of which mankind is capable and when either is destroyed God's will is not done in that marriage. But these qualities alone do not constitute marriage; they are not independent of the fulfilment of the purposes which they safeguard. The Christian teaching about marriage is distorted when the sanctity of marriage is identified chiefly with its permanence, as, for example, in the qualifying note to the first object of the Mothers' Union. A couple do not uphold the sanctity of marriage by remaining man and wife, when their relationship to each other frustrates every purpose for which marriage was given. The meaning and the real existence of a marriage according to the will of God derive from the personal and purposive relationship. Permanence alone cannot make it agreeable to God's holy ordinance; it may be only the protection of an empty shell from which all reality has gone.

The canon speaks of marriage as in its nature a union which is permanent and life-long. Its nature is what God gives to it in the natural order of life. When people sin against marriage they rob their marriage of its true nature. The wages of sin is death, and persistent sin by one or both partners can bring about the death of a marriage. Sin is a terrible reality, the consequences of which cannot always be removed by repentance. This was fully recognized by the Lambeth Conference in 1948. "We are bound to admit that a union which is indissoluble by divine institution may in fact be wrecked by sin; and that by the sin of one or of both partners the personal relationships in marriage can be completely destroyed. In marriage, therefore, as in other moral issues, the whole history of the Church affords continuous evidence of the conflict between the absolute will of God and the fulfilment of his divine purpose in the face of human frailty" (p. 98).

When this happens a divorce is in effect the legal death certificate of a marriage which has been killed and no longer exists in reality. Sinful and guilty though they may have been, they are no longer married and are free to marry again. Permanence and exclusiveness are natural to marriage but they are not inevitable. If this description of permanence is true, and it is written in the conviction that it is true, the Church would still have a difficult task in fulfilling her duty both to witness to the true nature of marriage and to help effectively those who have fallen from the true standard. But the task is even more difficult, for the Church is divided in its understanding of what a permanent union means. A large and influential body of opinion believes that the union is indestructible. To them, divorce is not so much sinful as impossible, and a re-marriage after divorce is no marriage at all, as the original marriage still stands in the sight of God in spite of what the law may have done about it. The whole emphasis is thus shifted from divorce to re-marriage. That, and not the divorce, is regarded as the ultimate sin which must be prevented, and judicial separation is almost regarded with equanimity.

There is then a deep cleavage of opinion about the meaning of permanence in marriage and this inevitably reflects itself in a divided opinion about the proper discipline which ought to be exercised when divorced persons wish to re-marry. The proposed Canon M.3 regulates this discipline.

Re-marriage after Divorce

The text of the proposed Canon M.3, Section 2 is as follows:—
“Of certain impediments to the Solemnization of Matrimony”

2. No Minister shall solemnize Matrimony, or allow Matrimony to be solemnized in the church or chapel of which he is the Minister, between two persons either of whom is a person who has already been married but whose marriage has been dissolved by secular authority, so long as the husband or wife to whom that person was married is still living.

At a first reading it would appear that in framing this Canon, Convocation has decided in favour of the opinion that a true marriage after divorce is impossible while the former partner still lives. But that is not so, for the Canon is a compromise. The regulation is limited to the practical action which is to be taken and says nothing about the rights and wrongs of marrying again after divorce, neither is any judgment passed on the nature of the second marriage. It is a Canon about impediments to the *Solemnization* of Marriage and not, as in Canon M.2, impediments to *Marriage*. When the Canon was first proposed in the Commission's Report it meant something very different. It made the second marriage contrary to the Canon Law of the Church. The text was:—

No person who has already been married but whose marriage has been dissolved by secular authority shall marry, so long as the husband or wife to whom that person was married is still living.

The content of the Canon has been radically altered and it is important that the change shall be noted. For although the revision does not go far enough for some people, it does explain why many have agreed to it, although they do not believe the second marriage to be invalid or unchristian. Provided the genuineness and even in some cases the desirability of the second marriage is not doubted, many have been willing to accept the Canon as a necessary discipline for the present time. Others have felt that the discipline is too harsh and that it hinders the redemptive and pastoral work of the Church. Certainly the persons concerned do often think this, and feel that the Church has refused to help them when they really wanted to make a new start with a Christian marriage leading to a Christian home. Since 1936, when Convocation passed a resolution similar to the Canon, the Bishops have imposed this discipline, and there is a growing volume of pastoral experience to show how the discipline works out in practice. There has been loss as well as gain. Certainly the Church has been able to impress upon people the seriousness of divorce and the life-long nature of marriage. Some people have accepted the discipline and been led by it to a deeper faith and penitence, but many have not been able to accept it and have turned away from the Church.

Services of Prayer and Dedication

Some clergy have tried to mitigate the rigours of the discipline by offering a private service of prayer in church after a wedding in the Register Office. A number of Bishops have approved this and in one diocese there is an authorized form of service to be used. In some cases this has worked well. The people concerned have seen that they have a duty to help the Church to witness to the sanctity of marriage which they have damaged. At the same time they have been able to make the full Christian promises to each other before God and within the Church and have received the prayer of the Church for their married life. Others have not understood and have felt that the Church is denying them a Christian marriage. They have felt in all conscience that what they are

doing is right. Their new marriage seems to them a holy thing which is bringing them nearer to God, whereas the previous marriage had been sinful and often sordid. They do not think it right to accept anything which is not done publicly or which might suggest that there was something wrong with their marriage. Others turn away from the Church for less reputable reasons.

There are also clergy who have found no ease to their conscience in offering a private service of prayer. They believe that in certain cases there is nothing at all wrong with the second marriage. They see that the sin was in all that led to the divorce, but that once the marriage is dead beyond recall and has been legally dissolved, then the people are completely free to marry again. They are deeply troubled in conscience that they are compelled to refuse the solemnization of marriage when they believe it is proper and desirable that it should be ministered. A few rebel and marry the couple, as they have the legal right to do, but for the most part the clergy are a loyal body of men who try to follow their Bishop's rulings and the decision of the Church as expressed in Convocation. Is it right that the Canon Law should drive some to rebel and many others to do an important part of their pastoral work with a bad conscience?

A conscience clause

The suggestion has been made that the true situation in the Church could best be expressed if a conscience clause were added to the Canon. A possible phrasing of it might be: "Saving the existing rights of the clergy under statute law and the rights of their conscience in the exercise of their pastoral office." The law referred to is the Herbert Act (1937) which ruled that 'No clergyman of the Church of England shall be compelled to solemnize the marriage of any person whose former marriage has been dissolved on any grounds or whose former husband or wife is still living, or to permit the marriage of any such person to be solemnized in the church of which he is a minister.' This gave liberty of conscience to the clergy who felt unable to solemnize such a marriage, but it did not take away the legal rights of parishioners to be married in their parish church provided they have a minister who is willing to officiate. This was plainly the intention of Parliament when the Bill was debated in the Standing Committee. For example, Sir Arnold Wilson expressed the common opinion when he said: "It would equally be a great injury to the conscience of the clergy to forbid them to solemnize a marriage as it would be to compel it." If there is no further revision of the Canon, the State will have shown a greater respect for conscience than the Church has.

There is a further point that should be noted. Any Canon which diverges from the Law of the Realm will have to come before Parliament. There is little need to fear that Parliament would reject any Canon which had the overwhelming assent of the Church, clergy and laity alike. But there is reason to believe that it would take a different view if the proposed Canon were known to be opposed by a considerable part of the Church. It would surely be wiser for the Church to send the Canon to Parliament with the unanimous will of the Church behind it and not to suffer the indignity of a clash in which Parliament was the champion of the rights of conscience with many churchmen on its side.

The whole purpose of Canon Law would of course be frustrated if every Canon had a conscience clause. But this Canon is in a different category from most, in that it deals with a moral and pastoral problem in which conscience has a vital part to play. Canon M.1 has been altered so that it is capable of the two interpretations which express the divided opinion in the Church and it is proper that the regulation of its discipline should also reflect the divided opinion. The Church ought not to reject

such a clause on the grounds that it might be abused. Surely the clergy are to be trusted to exercise their conscience with prayerful wisdom and to act with restraint when there is any doubt.

The strength of the minority opinion

No corporate body can meet the demands of every individual member and it is necessary to give some evidence that the opposition to the Canon is of some weight. Not many attempts have been made to secure numerical evidence, but in two dioceses the clergy were asked to state their views. In the Diocese of London the question was:—

1. Do you consider that the Church ought invariably to refuse to solemnize the marriage of divorced persons, or are there, in your opinion, cases in which this question should be decided by a Church Court constituted for the purpose?

In his Primary Charge (1947) the Bishop of London commented on their replies: "The majority of incumbents consider that the Church ought invariably to refuse to solemnize the marriage of divorced persons. But the majority is not large, 290 were for refusal and 218 against." In the Diocese of Chelmsford, the following question was submitted to the Diocesan Synod (1947):—

"It is suggested that, in the case of the innocent party in a divorce for adultery, if such party is a regular communicant, after a period (e.g., two years), that person may be remarried in Church." "Do you agree with this proposal?"

The voting was: YES 188. NO 189.

A prominent member of the House of Laity has given his opinion that 45% of its members would probably approve of the remarriage in Church of divorced persons, who desired it in faith and in good conscience. It is probable that even a larger number would desire the clergy to have liberty of conscience in their pastoral work.

An inquiry which anyone may undertake by asking their clergy and fellow-churchmen, "Do you believe that the Church should *always* refuse to re-marry divorced persons, while the former partner still lives?" would reveal that the evidence given is typical.

The Basic Arguments

In spite of this evidence, the appeal for a conscience clause may meet with strong opposition. It will be said that the Church cannot endanger her witness to the truth and that she has a right to discipline her clergy to this end. In saying this the assumption is made that the indestructibility of marriage is the clear and undoubted teaching of the Bible and the Church. If that were true, then the Church would have to say: "If your conscience does not agree, then it is undoubtedly in error, and although conscience must be followed the Church cannot permit you to do so within her ministry".

But it is not true. There is abundant evidence to show that the indestructibility of marriage is not undoubtedly the teaching of Bible and Church. Those who maintain that it is have a simple and straightforward case. They appeal to our Lord's words in the Gospels: "They are no more twain, but one flesh. What therefore God hath joined together let not man put asunder. Whosoever shall put away his wife and marry another committeth adultery against her" (Mark 10: 8-12). They argue that adultery is forbidden in the Ten Commandments and that Christ taught that to re-marry after divorce was to commit adultery. Therefore the Church must forbid the marriage. They go further and say that what God has joined together man *cannot* put asunder and that the re-marriage is therefore a bigamous union and no marriage at all.

This is perhaps an extreme way of putting the case and it is often put more moderately. Canon Hugh Warner who accepts this point of view

can write: "We ought to be more careful in the way we suggest that people remarried after divorce are 'living in adultery.' If a good person does something which in fact is wrong, but does it conscientiously that person is not morally blameworthy. In so far as 'committing adultery' carries with it a moral stigma, the Church never uses it of those who have acted conscientiously".

Those who hold the other opinion, that marriage *can* be destroyed, do not base their case on the surface meaning of one or two texts. They ask what did our Lord mean by the words He used and what construction did He mean to be put upon them. Other parts of Scriptures have to be used to gain a right interpretation.

It is claimed for example that 'becoming one flesh' means a relationship like that of mother and son which nothing can ever alter. Yet St. Paul shows that it does not mean a necessarily permanent union. In I Corinthians 6:16 he writes: "Know ye not that he which is joined to a harlot is one body? For the twain, saith he, shall become one flesh." No one suggests that such a union should be regarded as permanent.

It is claimed that our Lord did not permit any exceptions, and yet there are two examples in the New Testament which shew that the writers did not so understand our Lord. In Matthew 5:22 and 19:9 there is a clause inserted: "saving for the cause of unchastity." There is no textual evidence for omitting this, but it is the almost unanimous verdict of scholars that it is a later insertion. Yet the reason for the early insertion has to be found. In the Convocation Report (1935) 34 leading theologians were consulted. Two main opinions were given: (a) The early Church in legislating on the basis of the principles laid down by Christ found it necessary to make this exception and did not regard it as inconsistent with our Lord's words. (b) In the Judaism of our Lord's day adultery persisted in to the point of a virtual renunciation of the original marriage would have been held *ipso facto* to have dissolved the marriage. The wife was regarded as dead to the husband. This would have been taken for granted by the disciples and the insertion of the clause is to make clear to later generations what our Lord meant. Whichever interpretation is correct, there is Scriptural authority for marriage being dissolved when unfaithfulness is sustained and destructive to the marriage bond.

The second example is from St. Paul (I Cor. 7:12-15). He does not hesitate to give a ruling about a Christian who is deserted by an unbelieving partner. In this special case, he is not to be held by the bond. Canon Lacey comments on this: "Yet it must be admitted that such an interpretation (which the Church has always accepted) is inconsistent and irreconcilable with the principle that marriage is naturally indissoluble". (*Marriage in Church and State*, p. 19. Revised by the Bishop of Exeter, 1947.)

The Meaning of Adultery

Then we have to ask what our Lord meant by adultery. We are grateful to the Archbishop of Canterbury for his clear exposition of this in his booklet *Problems of Marriage and Divorce*. He asks: "How can the Church legislate without condoning adultery?" and then goes on to say: "Our Lord defined marriage as by God's will and intention lifelong and monogamous. Every falling below that will of God partakes of sin. Our Lord does not hesitate to describe it as 'adultery' when judged in the light of the Divine will. Yet the 'ordering of human society and the necessity of discipline even within 'the Churches make human attempts at judgement and the establishment of a relative justice in all human affairs necessary'. To attempt to secure, by the Church's discipline, *relative justice* with regard to adultery is not to condone it but is a necessary duty of the Church."

"We must therefore analyse the word 'adultery' and examine its

moral content before considering how Church discipline shall deal with it. Our Lord himself used the word in two different senses. He applied it to a man who, after divorcing his wife, marries another. He also said that 'whosoever looketh on a woman to lust after her hath committed adultery with her already in his heart' (Matt. 5:28). Here are two kinds of adultery; and how many who would never be guilty of the former must plead guilty to the latter! There is another form of adultery, morally more detestable than either of these, when a man (or woman) coveting his (or her) neighbour's wife (or husband) invades the marriage and violates it by adultery. There is another form, less open perhaps to moral objection than the other three, the adultery incurred in a second marriage after divorce which is totally unconnected with the breakdown of the first marriage, where, so to speak, the first marriage is dead and buried beyond apparent recall and the second marriage often comes as a real blessing to both parties and to the children. And it is evident that even though every one of these conditions is (as breaking in fact or in thought the marriage bond) adultery, yet they differ greatly in the degree of moral reprobation for which they call" (p. 12).

It is clear then that adultery means unfaithfulness to the marriage bond. In this sense a divorce is always an act of adultery and the re-marriage is touched by it, in that it is the *final act* by which the original unfaithfulness to the bond is perpetuated. But the unfaithfulness in adultery refers back to the first marriage and not forward to the second marriage. The adultery is *against* the former wife and not *with* the second wife. The new married life cannot be described as a life of continuous adultery.

Finally we have to ask whether our Lord was laying down hard and fast rules which must be obeyed if one is to remain a Christian. It is agreed that our Lord's general way of teaching was to give the uncompromizing principles of right conduct, absolute and unqualified in their demands, and that He left His followers under the guidance of the Spirit to work out the application in the actual situations of daily life, which are often compromised by sin. We would claim, with some justification, that His teaching about marriage is not a solitary exception.

In the light of this discussion it can hardly be said that the Bible plainly teaches without doubt that marriage cannot be dissolved.

The Teaching of the Church

The same conclusion must be reached when the teaching of the Church is examined. There is the same variation and similar examples of recognized exceptions. If the Canon is adopted in its present form the Church of England will be the only communion which provides for no exceptions. Even the Church of Rome, which holds that marriage is indestructible, sometimes dissolves a marriage, e.g. when a marriage is unconsummated or one of the partners is unbaptized the Pope in rare circumstances may give a dispensation and permit re-marriage. The Church of Rome also declares marriages to be null and void on grounds which the Church of England could never accept as proper. The Eastern Orthodox Church has from the 4th Century allowed divorce with the right to re-marry for a variety of reasons, similar to those allowed by the present laws of this country. This is not just an example of lax discipline, but is based on the conviction that certain sins cause the death of marriage.

The Lutheran and Calvinist Churches, followed by the Church of Scotland and the Free Churches, have all taught that marriage may be dissolved, with varying degrees of strictness in regulation. In the Church of England the Canon of 1604 granted legal separation without the right to re-marry. The Church has made no other formal regulation and this Canon became obsolete when matrimonial causes were transformed to

the Civil Courts in 1857. But in practice the Church has not acted as if marriage were incapable of dissolution. Divorce for adultery was regarded as in keeping with Christian teaching and although re-marriage was deprecated it was never regarded as impossible or invalid. Dr. Inge was fully justified in saying: "Those Anglicans who maintain that, since by Christian Law marriage is per se indissoluble, no divorce should be granted in any circumstances, are making a claim which is historically untenable and which the practice of the Christian Churches in all ages has proved to be unworkable. They are laying a yoke on the neck of the disciples, which neither our fathers nor we are able to bear" (*Christian Ethics and Modern Problems*, p. 367).

This evidence shows conclusively that it cannot be asserted that the Bible or the Church plainly and undoubtedly teach that the permanence of marriage means that marriages cannot be destroyed or dissolved in the life-time of either partner. The evidence shows that the consciences of those who take the opposite view is neither plainly in error nor ill-informed, and therefore ought to be respected.

The Archbishop of Canterbury in his booklet justifies the present discipline on two main grounds. First, that it is the only effective way in which the Church can bear witness to the truth about marriage. This is an argument which ought to carry very great weight. It would indeed be a great loss if divorced persons were commonly to be married in Church. But that is not to say there should never be an exception. An exception may prove the rule. Second, that the re-marriage is not a fit one to be celebrated in Church. From this statement we would regretfully have to dissent. In some cases, we believe that Christ has wholly cleansed them from the past and the new marriage is far more Christian and fit to be celebrated than ever the first one was. Later the Archbishop says that, although he does not feel able to forbid good people from re-marrying, yet he has to tell them that if they do "they will never again be able to bear a full and clear witness to our Lord's declaration of what marriage is." Very humbly we must say that this is a very doubtful statement. It suggests that permanence is the only essence of marriage to which Christians witness. A divorced person who does *not* re-marry is unable to bear a full witness. He is fulfilling none of the purposes for which marriage was given. If he marries again he may well bear witness to all that marriage means in the new marriage.

In spite, then, of the Archbishop's statement, which has helped so much to clear the air and bring fresh charity into the discussion, we must still plead a further revision of the Canon by the insertion of a conscience clause, by which the Canon would then receive the unanimous support of the whole Church.

J. HOWARD CRUSE.

CHAPTER VI

LAWFUL AUTHORITY AND THE ECCLESIASTICAL COURTS

Lawful Authority

Many of those who seek to undermine the relationship existing between Church and State in this country suffer from a lack of appreciation of what the establishment means. Although our country has largely drifted away from organized religion, nevertheless the nation as a whole intends to be a Christian society. At the Coronation of our Queen two years ago, the close links between Church and State were shown in the crowning by the Archbishop of the Sovereign. Parliament and the Courts of Assize are always opened with prayer, the Sovereign must be a member of the Church of England, and the Crown visits, protects, and controls the Church. Bishops sit in the House of Lords and the Church of England has precedence in national religious services. Prayers are said for the Sovereign at morning and evening prayer and the Chaplain to the Speaker to the House of Commons is always an Anglican. The State gives to the parish priest authority to celebrate lawful marriages. In the background, the Royal Supremacy does ultimately control the Church (Article 37), which consists of a large number of Corporations, sole and aggregate.

The real problem consists in discovering where lies the lawful Authority in such matters as legislation concerning the control of public worship, the appointment of Bishops and other Church dignitaries, and the jurisdiction of the Ecclesiastical Courts. In this matter, Acton's two principles apply, that of jurisdiction and order and that of counterpoise or balance. It has to be remembered that the Church on earth is not and cannot ever be regarded as a perfect society and the so-called spiritual independence of the Church is frequently synonymous with the mere clerical independence of the clergy. Hooker reminds us to consider what happened when the layman Moses went up into the mountain and left the priest Aaron in charge! There is a great deal of human nature in spiritual persons, and the counterpoise of State control has always been found necessary in England, because of the human sin which tends to corrupt power into the Pharisaism which crucified and continues to crucify our Lord. As the poet-philosopher Coleridge said:—

"I soon discover that by the 'Church' they mean the clergy exclusively, and then I fly off from them in a tangent, for it is this very interpretation of the Church, that according to my conviction constituted the first and most fundamental apostasy."

Legislation and Control of Worship

As an appendix to the 1947 Report on Canon Law, the Hon. Mr. Justice Vaisey sets out his views on Lawful Authority in a short Memorandum. In paragraph 13 of this Memorandum he states that it may be surmised that the Royal Commission adopted the expression (Lawful Authority) from Section 25 of the Act of Uniformity, 1662, but goes on to suggest that in the context of the Act of 1865 the meaning is not explicit. Under the Clerical Subscription Act, 1865, to which he is referring, the Declaration of Assent reads as follows:—

"I, A. B., do solemnly make the following declaration: I assent to the 39 Articles of religion and to the Book of Common Prayer and of Ordering of Bishops, Priests and Deacons; I believe the doctrine of the Church of England as therein set forth to be agreeable

to the Word of God, and in public prayer and administration of the sacraments I will use the form in the said Book prescribed and none other, except so far as shall be ordered by lawful authority."

It is submitted that the uncontradicted custom of nearly three centuries would suggest that lawful authority resides in the Sovereign in Council as Supreme Governor of the Church of England. In paragraph 16 Mr. Justice Vaisey sets out five possible meanings, and these were well answered in a Church Association booklet by Mr. Edgar W. Jones, M.A., Barrister-at-Law, particularly as regards the so-called "*Jus Liturgicum*" of the Bishops. Mr. Jones cites paragraph 43 of the Report of the Royal Commission on Ecclesiastical Discipline of 1906 which runs as follows:—

"There cannot, in our opinion, be any doubt that the Acts of Uniformity bind bishops as well as other clergymen; and that the law does not recognize any right in a bishop to override the provisions as to services, rites and ceremonies, contained in those Acts . . . it does not appear to us that there is any legal ground for assuming that, apart from Statutory provision, the bishop of a diocese has any inherent right to dispense the clergy from observing the provisions of those Acts."

Proposed Canon 13

The proposed Canon 13 in the 1947 Report sought to give to the Convocations an arbitrary power to deviate from the forms of service prescribed in the Book of Common Prayer, but so strong was the reaction against this proposed Canon that it has been watered down considerably in the intervening years. In the Church and State Report of 1952 it was suggested that power should be given to the Church, on the lines of draft Canon 13, to make optional and experimental use of deviations from the forms prescribed by the Book of Common Prayer subject to certain safeguards.

During the Debates in the Assembly on the Report, draft Canon 13 underwent further emendation, and if the Convocations were to accept the recommendations of the Church and State Commission, paragraph (c) of the Canon would read as follows:—

(c) Such deviations (whether by way of addition, omission, alternative use or otherwise) from the form prescribed by the Book of Common Prayer as the Convocations of Canterbury and York may respectively order, allow, or sanction within the said respective Provinces as being in their opinion both

(i) Convenient to be so ordered, allowed, or sanctioned from time to time for optional or experimental use, and also

(ii) Neither contrary to, nor indicative of any departure from, the doctrine of the Church of England.

Provided that (i) no such sanction shall be given unless there is a majority in its favour of not less than two-thirds of those present and voting, both in each House of Convocation and in the House of Laity, and

(ii) Every such sanction shall be for a period not exceeding seven (ten) years and

(iii) No such sanction shall be renewed for a further period unless there be a majority in favour of such renewal of not less than two-thirds of those present and voting, both in each House of Convocation and in the House of Laity.

The Word "Established"

Since the Convocations were restarted in 1852 and 1860, does the trend of Church life show that the clergy are really capable of governing the Church without adequate safeguards? During that hundred years,

England has drifted away from organized religion, and the desire to get away from so-called State control might be a sign of spiritual decay. Sir Thomas Inskip, M.P. (later, as Lord Caldecote, the Lord Chancellor), in his evidence to the Church and State Commission, which reported in 1935, said:—

“Theoretically the Evangelical and the Protestant with their rights of private judgment and their attachment to the Bible as the only real authority on doctrine, ought to have felt very impatient with what it is fashionable to call the fetters of the State. Actually they never troubled about such matters; I never heard them mentioned so far as I remember. The Bishop of Durham says in one of his charges that the agitation in favour of self-government for the Church is almost coeval with the Oxford Movement. I accept this from him, but the agitation was altogether unknown to me until the beginnings of the campaign to which the present Archbishop of York gave the high-sounding name of “Life and Liberty.” I can only suppose that in the Church circles—no doubt rather limited circles—in which I moved, people were more interested in the work of evangelization and kindred tasks than in getting the relations of Church and State altered. The parish prayer meeting had plenty of life and liberty, and I imagine it never occurred to those who engaged in extempore prayer at those weekly meetings that they were in bondage to, or in conflict with, the State.”

As already stated, much of the confusion arises from a misunderstanding of what the word “established” means. In relation to Church matters we mean “*stabilita*” not “*condita*,” and ought properly to say stabilized rather than established. It is not the Church that is established so much as the discipline and worship of the Church that are established or stabilized by law. When we say the rites (or ceremonies) of the Church of England as by law established, we mean that the rites or ceremonies, and not the Church itself, are established by law. The Church is and always has been free to proclaim the Word of God and to obey His commands, but it has not since the Reformation been free to alter its forms of worship, save as laid down by Article 34 and the preface to the Book of Common Prayer. Article 34 states:—

“Every particular or national Church hath authority to ordain, change, and abolish, ceremonies or rites of the Church ordained only by man’s authority, so that all things be done to edifying.”

In the preface we read: “Concerning the Service of the Church”:—

“And for as much as nothing can be so plainly set forth, but doubts may arise in the use and practice of the same; to appease all such diversity (if any arise) and for the resolution of all doubts, concerning the manner how to understand, do and execute, the things contained in this Book; the parties that so doubt, or diversely take anything, shall always resort to the Bishop of the Diocese, who by his discretion shall take order for the quieting and appeasing of the same; so that the same order be not contrary to any thing contained in this Book. And if the Bishop of the Diocese be in doubt, then he may send for the resolution thereof to the Archbishop.”

The Power of the Sovereign

As has been submitted, lawful authority to alter the religion “which this Church and Realm hath received (see, e.g., the forms of Ordination and Consecration) resides in the Sovereign in Council. Mr. Justice Vaisey seeks in his memorandum to substantiate his point that “lawful authority” is not explicit in the 1865 Act by citing *Rossi v. The Edinburgh Corporation*, where the point concerned the validity of a prohibition against selling ice-cream on a day set apart for public worship by

the Local Authority. This, however, is a misleading use of legal analogy, as the case was concerned with the interpretation of the bye-laws of the Edinburgh Corporation. His paragraph 21 is a nice piece of legal argument, but it just will not do to say that lawful authority is always to be sought from the appropriate quarter. This would too often mean seeking authority from a quarter other than that opposed to the views one happened to hold and wished to follow. The proclamation authorizing the new names to be added to the Prayer for the Royal Family is made by the Sovereign in Council, and provides a useful clue as where the true authority lies. As the *Times* leader—"Throne and Church"—stated after the death of the late King George VI:—

"It may be that modern theologians, rightly alert against the danger of allowing secular emotion to pass for religious belief, have lost their sense of the value of temporal loyalty as one approach to the understanding of religious truth."

Whether the leaders of the Church like it or not, the temporal powers that be are ordained of God (Rom. 13). There was no question of dissatisfaction as between Church and State before the Prayer Book controversy of 1927 and 1928. Prior to the passing into law of the Enabling Act of 1919, Archbishop Davidson said in the House of Lords, that House which has always been proud to contain Lords spiritual as well as temporal:—

"I may interpolate a word or two to say that I rejoice in what has been said as to the recognition of the right and privilege and duty of the Houses of Parliament to exercise absolute freedom of judgment on the final rejection or acceptance of measures which come before it in this way."

Dr. G. M. Trevelyan in *The History of England* says:—

"At the Reformation the laity on both sides of the Border had asserted their will against the medieval clergy, but in two very different ways. In England the Church had kept the outline of its ancient organization, remaining purely clerical in its structure; it followed that the control of the laity over its liturgy and doctrine had to be exercised not from within but from without, through Crown and Parliament. In Scotland, on the other hand, the laity took an active part in Church organization and government. Only so could there be any control of religion by the laity, because they had no real Parliament to speak for them."

Until such time as there is created (as there may be in the future) a National Synod, truly representative of the whole Church, the laity must retain its control through Parliament lest our Church degenerate into an ecclesiastical dictatorship. Parliament must continue to consider what is best for the whole nation, because the liturgical worship of the established Church does influence national conduct to a greater extent than many are prepared to admit. Our Book of Common Prayer must be such as to inculcate a strong national character and the wholesome development of English social life.

The proposals, even as they stand, appear to be full of potential dangers. There will be a period when even legal uniformity will go and the Prayer Book will lose such hold of the people as it now has. The Church and State Report of 1952 itself points out the danger, on page 31, that the period of experiment, though in theory temporary, might in practice prove to be permanent, "Just as a tenant who has entered into possession is not easily evicted, however short is the normal period of lease." Is the safeguard of seven to ten years sufficient, and what would be the practical difficulties of printing new books every so

often? What Parochial Church Council would be prepared to vote the necessary sums for such expense?

Even after the present lapse of time, this Canon does not appear to have reached its final form in the Convocations, but it will probably remain in substance what is suggested above when it comes to the House of Laity of the Church Assembly for consideration. Having got in sight of Canon 13, the Convocations have asked the Archbishops to set up a Liturgical Commission, whose duty would be to begin to prepare for the time when the said Canon is in operation, and to decide upon what should be permanent and what should be experimental revisions.

Appointment of Bishops and Deans

The Church and State Report of 1952 stated that in the view of the Commission there should be no attempt, in appointing bishops and deans, to diminish the present responsibility of the Prime Minister for the advice which he gives to the Sovereign, the final responsibility for the advice to the Prime Minister on behalf of the Church remaining with the Archbishops. It was recommended that if the Assembly thought it desirable, a small consultative body representative of bishops, clergy, and laity should be appointed by them in consultation with the Standing Committee of the Church Assembly, responsible solely to the Archbishops. Arising out of this recommendation, there have been various Motions brought up in the Assembly over a period of two years, the last of which in November, 1954, was typical, namely:—

“That in the opinion of the Assembly the present procedure should be so changed that all appointments to bishoprics and deaneries now made by the Sovereign on the advice of the Prime Minister be made by Her Majesty on the advice of such ecclesiastical persons as are members of Her Majesty’s most honourable Privy Council.”

After a long and somewhat ponderous Debate, interspersed with various amendments, a Motion was eventually carried in all three Houses in the following form:—

“That this Assembly, while gratefully acknowledging the care and trouble taken over recent appointments to bishoprics and deaneries, is of opinion that the present procedure for submitting advice to the Sovereign is open to objection and should be modified.”

Commenting on the above, the Archbishop of Canterbury reminded the Assembly of the importance of a proper sense of proportion in these matters. He recalled to the minds of the Assembly what the Church of England was facing in the country today, quite apart from events in the world outside the Anglican communion, and in the mission fields. He stated that the most important thing we were facing was the tremendous evangelistic opportunity. It terrified him when he thought of the number of doors which were being flung open through which the Church was being asked to come in and deliver the Gospel, and the chief thing burdening our hearts and souls and prayer ought to be that we might not fail to seize that opportunity. There are thus good grounds for hoping that no more will be heard on these ecclesiastical appointments for some years to come.

The Ecclesiastical Courts

By the proposed Canon 112 a major change in Church-State relations was suggested in the abolition of the final appeal to the Judicial Committee of the Privy Council. The suggestion was that the appeal should be to a final Court consisting of the Archbishops of the Province, two

members of the Upper House of Convocation of the Province, and two communicant members of the Church of England who hold or have held High Judicial Office, nominated by the Lord Chancellor. The 1952 Report took this draft Canon as its basis but varied the numerical proportion, suggesting that the composition of the Court should be the Archbishops of Canterbury and York, either of whom might appoint a member of the Upper House of his Province to act in his stead if he were either unable or unwilling to act himself, and two communicant members of the Church of England who hold or have held high Judicial Office. The President of the Court should be one of its own number elected by the members thereof.

Ever since the early days of the Tractarian Movement, various proposals for reform have been made and many Commissions have reported, the most important of which were the 1883 Royal Commission on Ecclesiastical Courts, the 1906 Royal Commission on Ecclesiastical Discipline, and the 1926 Church Assembly Commission on Ecclesiastical Courts which is reprinted as Appendix 4, Volume 1 of the 1935 Commission on Church and State. The last Commission was that set up by the Archbishops in 1951 at the request of the Convocations, and whose Report was published in 1954.

The power of Church Courts finds expression

(a) In the coercive jurisdiction conferred by the Crown on the Courts

(b) In the Crown's permission to the spiritual judges to use their inherent spiritual jurisdiction in the Courts

(c) In the reservation of final appeals for the hearing of the Crown in accordance with and subject to the laws of the Realm.

Of these (a) presupposes a power derived directly from Christ, (b) a power conferred by the Crown; (c) involves an admission that any Court administering the Crown's right to hear final appeals is on quite a different footing from that of the Church Courts. It is the Sovereign's Court in the fullest possible sense, for it does justice only in the name of the Sovereign, while the Bishops and Archbishops' Courts give sentence in the name of Christ, though with the Crown's permission.

Historically our ecclesiastical judicature has been created in two ways. Firstly, by permitting the Church to exercise its spiritual jurisdiction within the Sovereign's Dominions and, secondly, by supplementing the spiritual jurisdiction and adding coercive powers. Forgetfulness of this first aspect has led to much of the controversy of the last 100 years, but it must surely be conceded that the capacity to do anything and the right to exercise that capacity are very different. Sir Lewis Dibdin in his *Establishment in England* gives an interesting and helpful example:—

"A lets to B a room in his (A's) house; B is a tailor, and uses the room as a workshop; B's knowledge of tailoring is not derived from A, but his power and right to use his knowledge in A's house is entirely due to A's permission. So the power to excommunicate is inherent in the Bishops, and can neither be given nor taken away by the State; but the right to exercise it in England is conferred by the King and laws of England. No individual or society may lawfully erect a Court or use jurisdiction in this country without the licence of the State. It is obvious that every Government must of necessity discourage the establishment of *imperium in imperio*."

For this reason, Article 37 states that "The King's Majesty hath the chief power in this Realm of England," but not so that our Princes minister God's word or the Sacraments, but "rule all estates and degrees committed to their charge by God, whether they be Ecclesiastical or Temporal, and restrain with the civil sword the stubborn and evil-doers."

The Ecclesiastical Courts Report of 1954

This Report gives a useful historical background to the present-day set-up and a drastic reduction in the number of the existing Courts is recommended. At Diocesan level there is to be only one Court, i.e., the Consistory Court, to be strengthened by providing two clergymen and two laymen, being Justices of the Peace, to sit with the Chancellor or Principal in the trial of "conduct" cases, the latter still to be appointed by the Bishop. One criticism here is that many clergymen would not wish to sit in judgment on their brethren. A wiser recommendation is that the Bishops and Archbishops should no longer have the right themselves to sit as judges in their own Courts.

It will be recalled that at the moment there is a dual system of Courts consisting of the Ancient Courts and the Statutory Courts which came into being as the result of the legislation of the 19th and 20th centuries, c.f. the Church Discipline Act, 1840, the Public Worship Regulation Act, 1874, the Clergy Discipline Act, 1892, the Benefices Act, 1898, and the Discipline Measures of this century, such as the Bishops (Retirement) Measure, 1951. In the Ancient Courts, appeal from the Consistory Court of the Bishop is to the Court of the Province (i.e., the Court of the Arches in Canterbury and the Chancery Court in York), and thence to the Judicial Committee of the Privy Council. The Statutory Courts have mainly been concerned with questions of doctrine, ritual, and ceremony. The trouble with these latter Courts has in practice been that all cases have been subject to the Bishops' veto. This has always been a sore point because many feel that the present indiscipline in the Church could have been tackled with the existing machinery. The Report divides cases of clergy discipline into two broad categories: (1) those concerned with morality, unbecoming conduct, and negligence of duty; and (2) those concerned with doctrine, ritual, and ceremonial and a number of offences difficult to classify. They call the former "conduct" cases and the latter "reserved" cases. The "conduct" category is dealt with below, but with regard to the "reserved" category, the Report states:—

"We consider that it would be consonant with the approach of the Church to matters of doctrine at the present day if the only charge cognizable under our proposed procedure for reserved cases in a doctrinal issue were restricted to *advisedly maintaining or affirming any doctrine directly contrary or repugnant to the doctrine of the Church of England*; the sources of the doctrine of the Church of England being defined in the draft Canon V. But we make no recommendation on this matter as it is outside our terms of reference."

Canon V, which is dealt with elsewhere in this book, seeks to state that the doctrine of the Church of England is grounded in the Holy Scriptures and in the teaching of the Ancient Fathers and Councils of the Church agreeable to the said Scriptures. There is no doubt that the canon as at present proposed will be wholly unacceptable to large numbers of people. It seems singularly unfortunate that the Commission should base its doctrinal Courts on such a Canon when it also states so aptly: "We would desire to see a renewed appreciation of uniformity as a principle of liturgical worship."

If Canon V were thus passed, the teaching of the Fathers and the Councils might easily be construed to cover a variety of doctrine, so that it might not be possible to bring any matter before the Court of Ecclesiastical Causes Reserved or, indeed, to rule anything out. As one speaker in the recent Debate took leave to wonder, might we not be substituting for the jungle of Courts a jungle of doctrine?

The Court of Ecclesiastical Causes Reserved is a new Tribunal for the whole of England, to try all offences raising issues of doctrine, ritual, or ceremony, and to be the final Court of appeal in faculty cases involving these matters.

Veto

On page 65 of the Report it is proposed that in Clergy Discipline cases, in the "conduct" category, the Bishop should retain the absolute right of veto, which he now has at the outset of proceedings under the Discipline Measures, and in the "conduct" category the Report specifically includes not only the offences existing under the present system, but all offences against the Laws Ecclesiastical, whether in Statute or Canon, which impose, as a duty laid upon the holder of a particular Office, the taking of a service, or administration of a sacrament, or performance of a rite. The words "or Canon" are particularly to be noticed in this connection, for we may well ask why so much time is being spent upon the revision of the so-called Canon Law by the Convocations and the House of Laity if there is to be imposed with regard to such new Canons something roughly equivalent to the medieval "benefit of clergy". The original intention in giving the Bishop the veto was, for the better protection of the clergy from complaints of a frivolous, vexatious, and abusive character, but in the light of the proposals for a responsible Investigating Committee (p. 66 ff.) the veto surely becomes unnecessary.

There is no doubt that the veto is one of the main reasons for the present disrepute into which the system of Ecclesiastical Courts has fallen.

The Final Court of Appeal

While the question of the Final Court of Appeal was not specifically within the terms of reference of the Commission, the Commission in fact politely bows out the Judicial Committee of Her Majesty's Privy Council by suggesting that all legitimate interests will be safeguarded without additional appellate jurisdiction. They suggest that the final appeal might with advantage be transferred from the Judicial Committee to the newly constituted Court of Ecclesiastical Causes Reserved.

The trouble over the appeal to the Privy Council has arisen from many causes. It must be remembered that theoretically this Committee is not a Court at all. It makes a Report to the Sovereign who then makes an Order in Council. On page 72 of the Report, the Commission quotes from the 1906 Report of the Royal Commission on Discipline two sentences which have proved very popular with certain members of the Church—

"A Court dealing with matters of conscience and religion must, above all others, rest on moral authority if its judgements are to be effective. As thousands of clergy with strong lay support refuse to recognize the jurisdiction of the Judicial Committee, its judgements cannot practically be enforced."

It is to be noted that those who accept the foregoing generally steer clear of the rest of that pungent document of 1906. From whatever point of view one may regard it, it is a scandal for thousands of clergy in effect to be proud of disobedience to the Crown. Dr. Hastings Rashdall wrote—

"The existence of a lay court of final appeal secures a progressive toleration of differences in practice and opinion which could hardly have been secured in any other way. The Church of England would inevitably, it is not too much to say, have committed suicide as a comprehensive national Church but for the interposition of that

fatherly tribunal. It certainly did its best to do so not very long ago. Every party in the Church has had its distinctive opinions condemned by the strictly ecclesiastical court, i.e. either by bishops in person or their lay ecclesiastical judges. In almost every case the condemnation has been reversed by the Judicial Committee. Those who care about the comprehensiveness, the progressiveness, the effectiveness of the Church will not be in a hurry to modify a state of things which has had these beneficent results"—(*Christus in Ecclesia*, p. 311).

It is clear from Report after Report that there is a need to-day not only for guidance on the theology of the Church but also on the theology of the State.

It can fairly be stated that there was nothing whatsoever wrong with the Judicial Committee decisions referred to on page 73 of the Report, *Hebbert v. Purchase* and *Ridsdale v. Clifton*, which condemned the wearing of the vesture which the new Canon 17, as proposed, seeks to make legal. It is begging the question to state that it has been a widespread practice over the years for the chasuble and other mass vestments to be worn. There is nothing wrong with the Judicial Committee as such, save that there has been a purely emotional dislike of the law as interpreted by it. Had the decisions of the Privy Council in the cases cited been the other way, it is safe to say there would have been no outcry.

There is a closely reasoned argument in the Report as to why Bishops may not make good judges and it could be argued, the better the Bishop the worse judge he might be. Reports of the Consistory Courts over the past half century show that the decision is very often based rather on theological prejudice than on the evidence adduced to the Court.

A Typical Example

In a case in which the writer was involved about three years ago there was a petition by the incumbent of a certain country church for the introduction of an aumbry. The incumbent, as he was entitled to do, elected not to give evidence on oath, but merely explained to the Court that the petition was for an aumbry in the north wall of the Sanctuary for the purpose of the reservation of the Sacrament, and produced the Bishop's licence permitting reservation. He called no witnesses and therefore there was no opportunity of cross-examination by Counsel for the opponents of the petition. The objection was signed by about thirty members of the Parish, four of whom gave evidence. The evidence of three of these witnesses was very strong indeed against the aumbry and against reservation. There had never been reservation in that Parish before. The fourth witness was the people's warden who did not personally object to the aumbry, but thought there was a majority against the Vicar's petition. Without further details being gone into, it may be seen that the evidence presented to the Consistory Court was against the introduction of the aumbry, no evidence in chief being adduced in its favour. In a reserved judgment, the learned Chancellor disposed of all the cases cited by Counsel for the objectors, and came to the conclusion that he was free to grant a Faculty for the construction of an aumbry, if in the particular circumstances it seemed right for him to do so. In spite of the obvious antagonism, both to the aumbry and to the practices connected therewith, by this particular incumbent, whose activities succeeded in rending his Parish from top to bottom and driving the majority of his parishioners away from their village church, the Chancellor granted a Faculty. As if to rub salt into the wound, he further stated that if an application were made to him with the support of the Parochial Church Council, he would favourably consider an application for a lamp to hang in front of the aumbry. He ended his

judgment with words which will no doubt be recalled when he himself stands at that greater Judgment—

“It is my hope that now that this matter has been dealt with, there will be a common endeavour throughout this parish, both by individual effort and example, to lay aside whatever strife and criticism there has been so that the parishioners, under the leadership of their Vicar, will join together in the common task of all Christian people, a task which becomes more urgent with the growth of indifference and paganism.”

The above expression of hope rings more than a little false.

Separation of Powers

Through proposed Canon 9, the new Canons will greatly affect the laity, and laymen may be brought before the Consistory Courts at any time. It has always been conceded that no Canon can take away or affect the right of any subject to apply at any stage to the High Court, but this is not by any means entirely satisfactory, for, other considerations apart, the question of legal costs has to be carefully examined. While the Ecclesiastical Courts are apt to make such weird decisions as in the immediate past, the layman had best retain his right to appeal to Caesar.

The argument that lay judges are not competent to decide questions of doctrine and ritual has on the surface some small substance, but those who argue thus tend to forget that all judges are assisted most ably by learned Counsel. In the ritual cases of the last century, no one could have been dissatisfied with the way in which both sides were carefully presented to the Court. Could it seriously be argued, for example, in cases involving the Trade Unions that only Trade Unionist leaders, should sit as judges? Quite the reverse. Why then should a similar argument be applied to our ecclesiastical leaders? The British Constitution is based on the theory of the separation of powers, that is, the legislature, the executive, and the judiciary are to be kept separate and apart, having different functions. It is therefore bad constitutional theory for the head administrator to seek to control the judges.

The 39 Articles and Book of Common Prayer were originally a work through and with the laity, and the laity must continually watch lest any form of dictatorship within our beloved Church of England alienate from its friendly borders, those who should properly remain within them.

J. F. WALLACE.

CHARTER VII

THE DOCTRINE OF THE CHURCH AND HOLY SCRIPTURE

The subject which has been allotted to me in this symposium is always a relevant one and will never cease to be such; but it has special significance just now, not only with reference to the new Canons, but also in connexion with the commemoration of the Martyrs who died just 400 years ago, in 1555, 75 of whose names are given by Foxe.

There is little doubt that the main line of contention between the two groups in the Church at that time had to do with the doctrine of Christ's Presence at Holy Communion, and His precise relationship to the consecrated elements of bread and wine. For instance Anne Askew, who was charged with denying that the bread and wine in the Communion became the very body and blood of Christ, said, "The bread at the Communion which you call God is not God . . . the bread is for it." There is no doubt that in almost every case men and women died because of their convictions on this matter. But we may well ask how it was they came to hold such views and to hold them so tenaciously.

The simple explanation is that they had been studying the Bible and had made a comparison between what they found there and what they saw and heard in their Parish Churches. For example, to take the case already quoted, Anne Askew was often to be seen in her youth in the aisles of Lincoln Cathedral reading the Bible, the priests watching her with suspicion. What they experienced has been well put by a Roman Catholic, Bishop John of Meissen when he said: "As often as I read the Bible, I find in it a wholly different religion from that which we now have." In other words, many eyes were opened to see the disparity between Revelation and Practice, and it was because of their determination to recover primitive truth that they died.

Thus it was that the Bible came to the fore at the time of the Reformation and its position as the Rule of Faith was discussed. It cannot be questioned that this was one of the main issues 400 years ago, if not the main one. It appears to be fundamental to all others. The question at stake, then as now, is just this: Does the last word lie with the Bible, or with the Church, taking the latter term to include all Christians at any given time?

The Reformed Church

The position of the Church of England is clearly shown in the Articles and in the Homilies, and, speaking generally, this is the position of all the Reformed Churches. Following the Disruption in the Church of Scotland, Thomas Chalmers, one of her greatest sons, wrote: "After the Bible is established as the directory of my Faith, I offer to it the unconditional surrender of my understanding" (Works, Vol. VI, p. 167). The Protestant Churches of the Continent spoke with just the same voice. Let John Calvin represent such. "There is this difference between the apostles and their successors, they were sure and authentic amanuenses of the Holy Spirit, and, therefore, their writings are to be regarded as the oracles of God, whereas others had no other office than to teach what is delivered and sealed in the Holy Scriptures" (Institutes, Book I, VIII).

The Church and the Bible

To discuss fully the relationship between the Church and Holy Scripture would go beyond the scope of this chapter and yet something

must be said upon it. It is easy to say that the Church was before the Bible (using the first term as the Early Christians and the second as the New Testament), and therefore it is superior to the Bible, but this is not entirely satisfactory. It is remarkable that no leader in the Church ever commissioned anyone to write any part of the New Testament. The whole thing was of God. It is more true to say that the books of the New Testament descended upon the Church from God than that they arose from it. The office of the Church was to recognise the writings which had the stamp of God upon them and to see to it that they were circulated and read, as was the Old Testament.

The Bible and the Church were joint gifts of the Holy Spirit and until this is grasped there is bound to be confusion. Both have authority, but in different realms. The Church is to teach the truth, but it is the truth as it is in Christ Jesus, and this is set down in the oracles of God to which nothing is to be added and from which nothing is to be taken away (Rev. 22, 18-19). The Creeds are not parallel with the Church, but the Bible is. The word of God in the mouth of the Apostles gave birth to the Church, made up of those who hear and obey—that original word, in the goodness of God, being recorded in Holy Writ for our comfort and edification. Our 20th Article states that the Church is a witness and keeper of Holy Writ; it does not say that the Church is the maker of Scripture or its infallible interpreter. Indeed, in another Article (XXI) it states that “in any assembly of men where all are not governed by the Spirit and Word of God, they may err and sometimes have erred, even in things pertaining to God”.

The Thirty-nine Articles

At this stage it may be helpful to bring forward the references in the Articles to Holy Scripture. Taken one by one they are impressive, but taken together they are quite decisive and reveal what is the place our Church gives to Scripture in determining doctrine and enunciating practice. Here are the seven references set down in order:—

The Sixth Article declares that “Holy Scripture contains all things necessary to salvation, and that whatsoever is not read therein, nor may be proved thereby, is not to be required of any man, that it should be believed as an article of faith, or be thought requisite and necessary to salvation.”

The Eighth Article says that “the three Creeds ought thoroughly to be believed and received, for they may be proved by most certain warranty of Holy Scripture.”

The Twentieth Article says: “It is not lawful for the Church to ordain anything that is contrary to God’s Word written, neither may it so expound one place of Scripture that it be repugnant to another.”

The Twenty-first Article says that “things ordained by General Councils as necessary to salvation, have neither strength nor authority, unless it be declared that they be taken from Holy Scripture.”

The Twenty-second Article condemns certain Romish functions, “because they are grounded on no warranty of Scripture, but are rather repugnant to the Word of God.”

The Twenty-eighth Article condemns Transubstantiation, “because it cannot be proved by Holy Writ, but is repugnant to the plain words of Scripture.”

The Thirty-fourth Article says that “traditions and ceremonies of the Church may be changed, so long as nothing is ordained against God’s Word.”

The First Homily

Perhaps just a passing allusion to the Homilies may be helpful at this point bearing in mind the authority they have in the Church, as shewn in Article XI. The first Homily in the first book of Homilies is the one to which I particularly desire to draw attention. "A Faithful Exhortation to the reading and knowledge of Holy Scripture." It is a very moving sermon and forms a remarkable commentary on the question in the Ordinal relating to Holy Scripture. It exhorts us to "diligent searching of the books of the New and Old Testament" and not to "run to the stinking puddles of men's traditions". Over and over again, twelve times to be exact, Scripture is called the Word of God. It meets the requirements of the ignorant, the hard-hearted, the oppressed, the sin-wounded. Many are the metaphors used to stress its value. It is called "the well of Life", "the heavenly meat", "a lantern for our feet", "an instrument of salvation", "the most precious jewel", "Wine, sweeter than honey", etc., etc. The second part contains the oft quoted sentence, "Ignorance of God's word is the cause of all error."

Had space permitted I might have quoted additional evidence to prove that Scripture, and Scripture only, is the Rule of Faith in our Church, to which everything and everyone has to bow. Just as in the days of the Old Covenant, the priest and the king and magistrate (Deut. 17) were under the written law; just as regarding citizenship we are under laws made by Act of Parliament; so all of us, both clergy and laity alike, are now under the Law of God's Word written. "Heaven and earth shall pass away, but my words shall not pass away," our Master said (Matt. 24, 35). "The word that I have spoken shall judge you in that day" (John XII, 48).

The Church of Rome

It is high time that I compared the position taken up by our Church with the position occupied by the Church of Rome. This is nowhere more clearly stated than in the Decrees of the Council of Trent which the compilers of our Articles had in view when they were drawing up our Articles. I quote from the Decree concerning the Canonical Scriptures under the ninth Session. "This truth and discipline (of the Gospel) is contained in the written books and in the unwritten traditions, which, received by the apostles . . . have come down to us, transmitted, as it were, from hand to hand; the Synod, following the example of the Orthodox Fathers, receives and venerates, with equal affection of piety and reverence, all the books of the Old and also of the New Testaments, as also the said traditions, both those appertaining to faith as well as those appertaining to morals, as having been dictated either by Christ's own word or mouth, or by the Holy Ghost, and preserved by a continuous succession in the Catholic Church" (Waterworth's Translation, p. 17).

This statement must be supplemented by the first two Articles of the Creed of Pope Pius IV as drawn up in 1564:

1. "I most steadfastly admit and embrace Apostolical and Ecclesiastical traditions, and all other observances and constitutions of the same Church."
2. "I also admit the Holy Scriptures, according to that sense which our Holy Mother, the Church, has held, and does hold, to which it belongs to judge of the true sense and interpretation of the Scriptures; neither will I ever take and interpret them otherwise than according to the unanimous consent of the Fathers."

The Catholic Tradition

Two comments, and two only, can be made. 1. The Rule of Faith in the Church of Rome is not Holy Scripture alone, but Holy Scripture

plus the traditions. 2. These traditions, which are numerous, are to be carefully handled and only interpreted according to the unanimous consent of the Fathers. The whole tendency of such provisions is to undermine the authority and sufficiency of Holy Scripture, which is so strongly stressed by our Church. And we must not run away with the idea that the traditions and the Fathers can be consulted in one neat little handbook which is ready for use by the inquiring layman. The Hampton Court maze is child's play compared with the investigations which these two articles propose. Indeed until comparatively recently the task was an impossibility. But a Frenchman, named Jacques Paul Migne, came forward to supply the lack. The prospectus of his work claims that "out of the innumerable works which constitute *The Catholic Tradition* he has formed one unique and admirable work" which was undertaken to make everything quite clear. It sounds very hopeful until you learn that "the admirable work" contained 383 volumes! It is scarcely surprising that the Archbishop of Paris thinking the undertaking had become a commercial speculation forbade it to be continued and suspended poor Migne!!

What I have just said is sufficient to shew the impossibility of adding tradition to Holy Scriptures. And, besides that, it is unnecessary. Why is there such a gap between the Apostolic writers and those that succeeded them? It rather looks as though God wished to underline the uniqueness of Holy Scriptures and to keep it quite apart. And, besides this, "for any saying or action, or doctrine of our Lord, not contained in the Bible, there really is not so much evidence as the editor of a respectable newspaper requires before he admits an announcement into his columns" (Geo. Salmon).

And when it comes to the unanimous consent of the Fathers, where is it? Take the famous passage about the Church being built on the rock—the passage has been interpreted in four different ways by the Fathers. On this particular point, what becomes of unanimity? The position of the Reformed Churches in holding to Scripture alone, apart from tradition altogether, is much safer and more satisfactory. Recall how easily tradition can conceal the true meaning of Scripture (Matt. 15) and Christ tore it away to allow the Bible to speak with its own voice.

Having got thus far some may be asking: Whither are we being led? Such a question is quite in order and I am glad to face it because it will bring me to the subject which really is the main theme of this essay. This is the proposed New Canon 5. Let me give it you in full so that you can have a good look at it.

Of the Doctrine of the Church of England

"The doctrine of the Church of England is grounded in the Holy Scriptures and in the teaching of the ancient Fathers and Councils of the Church agreeable to the said Scriptures, and in particular is to be found in the Thirty-nine Articles of Religion, the Book of Common Prayer, and the Ordinal."

The first comment that must be made is that there is nothing corresponding with this Canon in the Canons of 1603. All we find there is an occasional incidental reference such as appears in Canon 4: "Who-soever shall hereafter affirm, That any of the nine and thirty Articles agreed upon by the Archbishops and Bishops of both provinces, and the whole Clergy, in the Convocation holden at London, in the year of our Lord God one thousand five hundred sixty two, for avoiding diversities of opinion, and for the establishing of consent touching true Religion, are in any part superstitious or erroneous, or such as he may not with a good conscience subscribe unto; let him be excommunicated . . ."

But there is no Canon quite like the new one. Of course the Bishops had Article VI before them ("Holy Scripture containeth all things necessary to salvation . . .") and there was no need for further definition. The *canonical* Scriptures were to be the yardstick of all the Canons in a final way. It is also noticeable that the only reference to the Fathers is in connection with the use of the Cross in Baptism (Canon 30). "This use of the sign of the Cross in Baptism was held in the primitive church . . . evident by many testimonies of the ancient Fathers." The practice of the Fathers is brought forward to confirm our own usage. The Fathers are introduced to confirm practice and not doctrine.

Now in draft Canon 5 it is very different. Note the wording: "The doctrine of the Church of England is grounded in the Holy Scriptures and in the teaching of the ancient Fathers and Councils of the Church agreeable to the said Scriptures." A second and parallel, but not subsidiary, authority is brought forward as a "ground" for doctrine. True, the second clause is qualified "agreeable to the said Scriptures". One wonders just what is the point of this change. Where lies the necessity for the alteration?

Why should not the Canon be made to run: "The doctrine of the Church of England is grounded in the Holy Scriptures and in particular is to be found in the Thirty-nine Articles of Religion, the Book of Common Prayer, and the Ordinal." Would not this be more in harmony with the genius of our Church and with the outlook of the Early Church? There is scarcely any doctrine upon which the Fathers are more in agreement than on the subject of the uniqueness and the supremacy of Holy Scripture. For instance, Irenaeus says: "By no others have we come to the knowledge of the plan of our salvation, but those through whom the Gospel came to us, which they then preached, but afterward, by the Will of God, delivered to us in the Scriptures to be the foundation and pillar of our faith."

One of our most far-seeing writers in the Church states: "In the proposed new Canon 5 the Bible seems to me to lose its solitary sovereignty as the final and only court of appeal in matters of doctrine and now has to share that position with the Ancient Fathers and the Councils of the Church." That expresses the view not only of the writer of this chapter, but of all the contributors to this book, and it is on this ground that we are uneasy. Would any great loss be suffered if the omission I have suggested were made? Who would be sorry? Of course it may be a stepping stone to something else! It certainly could be a half-way house to the necessity for a "Living Voice", because, as I have shown, the Fathers give "unanimous consent" on very few points, apart from the supremacy of Holy Scripture. This very process took place in the case of Archdeacon Manning. Listen to his tirade:—

"I erroneously maintained that the old and true Rule of Faith is Scripture and Antiquity and I rejected as new and untenable two other rules of faith—first, private judgment . . . and, secondly, the interpretations of the living Church . . . I then saw that all appeals to Scripture alone or to Scripture and Antiquity . . . are no more than appeals from the Divine Voice of the living Church and, therefore, essentially rationalistic . . . The Blessed Sacrament of the Altar . . . this it is which renders the text of Holy Scripture . . . less necessary to the disciples of the Church of Jesus Christ . . . The master-error of the Reformation was the fallacy . . . that Christianity was to be derived from the Bible . . . It was the charge of the Reformers that the Catholic doctrines were not primitive and their pretension was to revert to Antiquity. But the appeal to Antiquity is a treason and a heresy. It is a treason because it rejects the Divine Voice of the Church at this hour and a heresy because it denies that Voice to be divine."

In the report published in 1947, entitled *The Canon Law of the Church of England*, there is a marginal note referring us to the Lambeth Conference of 1930. Reference to the volume issued at that time reveals that the question arose in connection with discussions which took place between our own Bishops and leaders of the Eastern Orthodox Church. The statement to which the Rumanian delegation said it could agree ran as follows:—

“The Revelation of God is transmitted through the Holy Scriptures and the Holy Tradition. Everything necessary for salvation can be founded upon Holy Scripture, as completed, explained, interpreted and understood in the Holy Tradition, by the guidance of the Holy Spirit residing in the Church. We agree that by Holy Traditions we mean the truths which come down from our Lord and the Apostles and have been defined by the Holy Councils or are taught by the Fathers, which are confessed unanimously and continuously in the Undivided Church and are taught by the Church under the guidance of the Holy Spirit. We agree that nothing contained in Tradition is contrary to the Scriptures. Though these two may be logically defined and distinguished, yet they cannot be separated from each other nor from the Church.”

When this is compared with draft Canon 5 only one interpretation is possible. The whole thing is in the nature of a rapprochement. In this way the door is being opened to reunion with the Eastern Church and perhaps ultimately with the Church of Rome. One thing in this matter is quite certain. If this door opens, another closes! The Free Churches will then be driven farther off and the prospect of reunion with them made impossible.

The Nature of the Ministry

If pressed to elucidate the meaning of the sentence “the truths which come down from our Lord and the Apostles”, one point is always raised, namely, the form and nature of the ministry. Many will remember how Dr. Gore, handling this question in his book *The Ministry of the Church*, says that at two points the witness of the New Testament needs to be supplemented by the ministry of the Church: 1. We have no clear information as to the limitations of the functions of the different orders—for example, we have no clear information as to who exactly can celebrate the Eucharist and who can baptize. 2. We have no determining evidence as to the exact form which the ministry of the future was to take. These are questions, Dr. Gore says, which are still open when the New Testament closes. In the telling phrase of Richard Hooker, “God remembered the basons (in the Tabernacle) but forgot the Archbishops”. But may it not well be that the question was left open by the New Testament writers because God wished it to be left open? This is exactly Hooker’s position against Cartwright who averred that the Presbyterian form of ordination and ministry was specifically regulated in the New Testament. “No”, says Hooker, “but our form of ministry is essentially in harmony with that of the New Testament”.

Is it not clear that the better way is to abide by Scripture alone without tradition and the teaching of the Fathers. And whatever is clear in Scripture is vital; whatever is not clear is not vital. The alternative is so full of dangers and disappointments. The learned Jesuit Petau observed that nearly all the ancient Fathers used phrases which after Nicea would have been regarded as Arian and that some held beliefs, like the pre-existence of the soul, which were later condemned.

In his recent book *The Bible and Evangelism* Dr. A. M. Chirgwin shews how unique a place the Scriptures held in the early Church. “Let the Scripture be in your hands”, says Cyprian to his African flock. “I cannot sufficiently urge you to devote yourself to the reading of the Bible”, writes Jerome to the widow Demetrias. Chrysostom, in one of

his sermons, suggested that what the tool is to the artisan so the Bible is to the Christian. "Every Christian", he says, "should buy one and never part with it".

Draft canon 5 which we have been discussing has been agreed upon by all four houses of Convocation and sent back to the laity. May we therefore appeal to our lay folk to press for a deletion of the clause in the heart of the canon, "and in the teaching of the ancient Fathers and Councils of the Church agreeable to the said Scriptures"? If that part remains the dangers that face us are neither few nor trivial.

M. GUTHRIE CLARK.

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